

Eye on the Industry

June 2016

Bulletin #1

Plain and Standardized Packaging: Tobacco Industry Double Speak



On this year's World No Tobacco Day (WNTD), May 31st, the World Health Organization urged governments to get ready for plain packaging. Federal Health Minister Jane Philpott took advantage of the opportunity to announce the commencement of a 3 month consultation period on potential measures for standardizing tobacco packages and cigarettes under the *Tobacco Act*. Canada's tobacco industry and its front groups and allies also took advantage of WNTD to make their positions heard. The following pages outline who they are, what they're saying and what they've said in the past, and show how their messages are designed to distort the facts and confuse and dissuade Canadians on the value of plain and standardized tobacco packaging.

Imperial Tobacco Canada

Imperial Tobacco Canada was the only tobacco company to speak out regarding Health Canada's consultation announcement, criticizing the government for being hypocritical with its health agenda.¹ Ironically, Imperial recommended that the government focus instead on "proven means" for ensuring that young people do not smoke, such as education programs (which have proven to be effective only when included as part of a broader, more comprehensive approach to tobacco control).

"With products already hidden from view in stores and 75 percent of the pack covered with health warnings, nobody starts smoking because of the pack."

~ Eric Gagnon, spokesman, ITC
May 2016

Big Tobacco put up a desperate, if not heroic, fight in response to Australia's *Tobacco Plain Packaging Act*. This included a constitutional challenge, a World Trade Organization dispute (there is evidence that Philip Morris International and British American Tobacco contributed financially to the challenges launched by 3 of the 5 countries), and a challenge brought under the Australia – Hong Kong Bilateral Investment Treaty. Plain and standardized packaging passes the scream test with flying colours.

"Given the current ban on cigarette advertising and severe limits on promotional activities, manufacturers must find other meaningful ways of communicating brand awareness. Enhancements to packaging and other product details provide consumers with tangible touch points that effectively express the brand's identity."

~ Jeff Guiler, Vice-President of Marketing,
Imperial Tobacco, March 2006

The plain truth about plain and standardized packaging is that it works, and Imperial Tobacco knows it.

"Under conditions of total ban, pack designs ... have enormous importance.... Therefore, the most effective symbols, designs, colour schemes, graphics and other brand identifiers should be carefully researched.... An objective should be to enable packs, by themselves, to convey the total product message."

~ BAT, "Guidelines on Communications Restrictions and New Opportunities in Marketing," 1979

These quotes from previously secret industry documents prove that plain and standardized packaging works. What ITC says publicly versus what it knows to be true are diametrically opposed: a perfect example of industry double speak.

¹ Imperial Tobacco Canada. Press release 30 May 2016. *It's Time for Government to End the Hypocrisy Around Its Health Agenda*. <http://www.newswire.ca/news-releases/its-time-for-government-to-end-the-hypocrisy-around-its-health-agenda-581295121.html>. Accessed 14 June 2016.



Front cover, Tobacco Journal International
April 2008

The efficacy of plain packaging has also been confirmed by the tobacco industry worldwide. This 2008 warning was featured on a plain white front cover of *Tobacco Journal International*, the leading international trade publication for executives in the world of tobacco.

Industry analysts and advertising experts know that plain packaging has real potential to impact tobacco consumption.

"While it's still a bit early to gauge the ultimate impact on underlying consumption, we continue to believe the enforcement of plain packaging could pose a long-term risk to the industry...."

~ Wells Fargo,
19 May 2016

"Plain packaging would go a long way to undermine the power of tobacco brands."

~ Citi Investment Research,
June 2008

"The package is the core of all tobacco marketing. No country has a tobacco advertising ban until it deals with package-based tobacco advertising."

~ Martin Rothstein, President and CEO
MaLaren: Lintas
(Canadian advertising agency), 1994

Canadian Convenience Stores Association

“Our retail counterparts in Australia describe the post-plain packaging era as a race to the bottom...”

After this measure was introduced, customers began purchasing and consuming cheaper cigarettes in higher quantities...

This demand was met by a burgeoning contraband market...”

**~ Alex Scholten, President, CCSA
May 2016**

The relationship between the CCSA and Canadian tobacco manufacturers is tight. Some senior staff of CCSA and its regional affiliates are former tobacco company employees: Treasurer Ron Funk is a former Rothmans, Benson & Hedges Inc. (RBH) executive, Ontario Convenience Stores Association President Dave Bryans is a former employee of RJR-Macdonald (now JTI-Macdonald), and Michel Gadbois, President of the Quebec Association of Convenience Stores (AQDA), is a former RBH public relations representative. All the major Canadian tobacco companies are listed as Associate Members on the CCSA website, which features tobacco issues front and centre.

However, the CCSA is not forthcoming about its funding. Testifying before the Quebec Health and Human Services Commission in 2015, Gadbois flat-out refused to provide information about the funding of his organization. However, he did acknowledge that the AQDA holds identical positions as the tobacco industry on contraband as well as other tobacco-related issues. Another CCSA affiliate is the National Association of Convenience Store Distributors (NACDA), which lists all of Canada’s tobacco manufacturers as national associate members. NACDA’s position that plain and standardized packaging will lead to an increase in contraband tobacco is identical to that of Big Tobacco.²

Why is the CCSA and its regional affiliates so closely tied to Big Tobacco?

- They need each other. Tobacco and tobacco-related products represent a significant proportion of convenience store sales,³ and convenience stores sell 2 out of every 3 cigarettes sold in Canada.
- In the face of increasingly tight restrictions on tobacco advertising and promotion, Big Tobacco has come to rely greatly on retailers to communicate to consumers about their products, and to help sell more cigarettes.

² National Association of Convenience Store Distributors. Press release 31 May 2016. *Distributors Warn Plain Packaging Threatens Growth in Counterfeit Tobacco*. <http://www.marketwired.com/press-release/distributors-warn-plain-packaging-threatens-growth-in-counterfeit-tobacco-2129914.htm>. Accessed 14 June 2016.

³ Canadian Convenience Stores Association. *National 2012 Industry Report. Over-regulation: A pivotal cross-road for the c-store industry*. <http://ontariocstores.ca/wp-content/uploads/2013/03/CCSA-SOI-2012.pdf>. Accessed 21 June 2016.

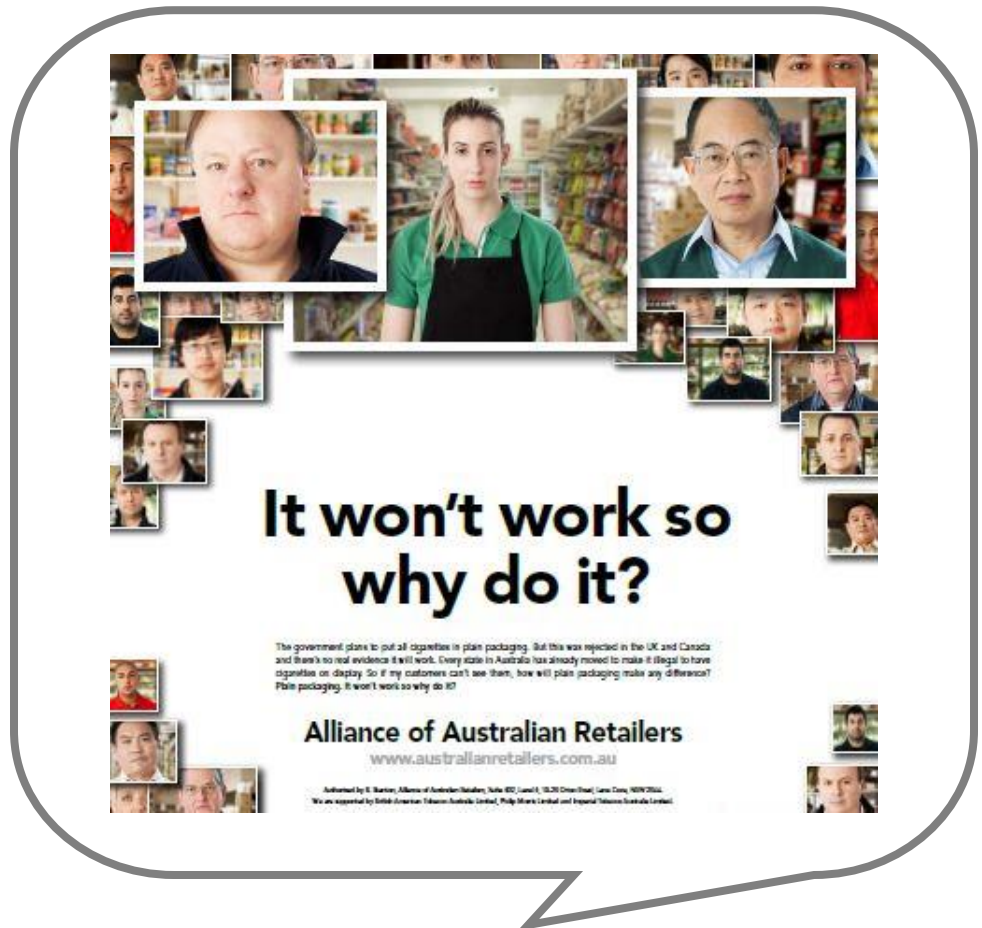
- As their own credibility with government and the public has declined, tobacco companies have increasingly relied upon retail associations to be their mouthpiece.

Why is the CCSA talking about contraband cigarettes?

- A key strategy for Big Tobacco is to try to dissuade governments from implementing meaningful measures by distracting them with grossly exaggerated statistics about the size of the contraband tobacco market and its threat to public safety from organized crime.

The CCSA asserts that smoking in Canada is at an all-time low, and that retailers' contributions to this success should not be underestimated.⁴ President Alex Scholten has even gone so far as to say that the CCSA is the government's partner in the controlled and regulated sale of tobacco products.⁵ This is clearly a dysfunctional "partnership," as the CCSA has vigorously opposed all meaningful measures to curb tobacco use, including tobacco display bans, flavour bans and tax increases.

In Australia, the tobacco industry created a front group they called the Alliance of Australian Retailers (AAR), spending over \$9 million CAD on a mass media campaign to tell people that plain packaging wouldn't work—an irony that was not lost on Australians.⁶



⁴ Canadian Convenience Stores Association. Press release 31 May 2016. *Retailers Concerned Plain Packaging Will Undermine Tobacco Control Measures*. <http://theccsa.ca/content/retailers-concerned-plain-packaging-will-undermine-tobacco-control-measures>. Accessed 14 June 2016.

⁵ Scholten, A. CCSA testimonial before the Standing Committee on Finance, May 12, 2016. <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=8269416&Language=E&Mode=1>. Accessed 15 June 2016.

⁶ Sydney Morning Herald. *Big Tobacco hired public relations firm to lobby government*. 11 September 2010. <http://www.smh.com.au/national/big-tobacco-hired-public-relations-firm-to-lobby-government-20100910-154yg.html>. Accessed 15 June 2016.

Sinclair Davidson

Sinclair Davidson is a Senior Research Fellow at the Australian Institute of Public Affairs (IPA), a free market corporate-funded think tank, as well as an economics professor at the Royal Melbourne Institute of Technology (RMIT). Key policy positions of the IPA include privatisation and deregulation (including opposition to tobacco control), opposition to unions and non-governmental organisations, and climate change denial. The IPA was one of most vocal and steadfast opponents of plain packaging in Australia throughout the campaign.

“The Australian government has failed to adequately demonstrate the effectiveness of the plain packaging policy.”

~ Sinclair Davidson
May 2016

An outspoken opponent of plain packaging, Davidson has for years railed against the Australian government. He recently co-wrote a damning critique of the Australian government’s data and its analysis in support of tobacco plain packaging.

Davidson’s report has been analyzed by the Cancer Council Victoria, which found it to contain numerous errors of fact, was grossly over-simplistic, misunderstood or misrepresented the data, and had not been scientifically peer-reviewed.⁷

The Canadian Convenience Stores Association recently invited Davidson to Canada for a cross-country speaking tour about plain packaging, for which he denied receiving payment for his travel costs and time, and denied taking money from the tobacco industry (he said he was paying for the trip himself, taking the opportunity to visit with friends and relatives).⁸ Despite his report being deeply flawed, Davidson unfortunately garnered considerable media attention in this country, stirring up controversy and questioning the value of plain packaging for Canada.

According to The Center for Media and Democracy, an American watchdog group that conducts in-depth investigations into corruption and the undue influence of corporations on media and democracy, the IPA has been embroiled in controversy over failure to disclose funders of its work.⁹ In 2014 *The Sydney Morning Herald* reported that the IPA had received “considerable funding from Big Tobacco over the past 10 years,”¹⁰

⁷ Cancer Council Victoria. *Comments on Davidson, S and de Silva, A. Stubbing out the evidence of tobacco plain packaging efficacy: An analysis of the Australian National Tobacco Plain Packaging Survey, Social Science Research Network.* 3 June 2016. http://www.cancervic.org.au/downloads/plainfacts/Davidson_working_paper_comments_3_June_2016.pdf. Accessed 16 June 2016.

⁸ Canadian Broadcasting Corporation. Audio clip. *Smoke and mirrors? Australian professor says plain packaging doesn’t work.* 6 June 2016. <http://www.cbc.ca/news/canada/british-columbia/plain-tobacco-packaging-australia-1.3619464>. Accessed 16 June 2016.

⁹ The Center for Media and Democracy: SourceWatch. *Institute of Public Affairs.* http://www.sourcewatch.org/index.php/Institute_of_Public_Affairs. Accessed 16 June 2016.

¹⁰ Hawthorne, M & Desloires, V. *Big Tobacco distributes report bullying plain packaging laws.* Sydney Morning Herald. 27 November 2014. <http://www.smh.com.au/federal-politics/political-news/big-tobacco-distributes-report-bullying-plain-packaging-laws-20141127-11v7ov.html>. Accessed 16 June 2016.

and previously reported that one of the IPA's directors had confirmed that the think tank takes positions that are congruent with its funders, "otherwise they'd stop funding us."¹¹

National Coalition Against Contraband Tobacco

The NCACT is a Canadian tobacco industry front group, and lists among its supporters the Canadian Tobacco Manufacturers Council, the Canadian Convenience Stores Association and the National Association of Convenience Store Distributors. These organizations all share a vested interest in reducing contraband in order to increase their own sales of tobacco. The NCACT's key strategy is identical to that of the CCSA: try to dissuade governments from implementing meaningful measures by distracting them with exaggerated claims about the extent of contraband tobacco sales and its threat to public safety.

"... [in Ontario] illegal cigarettes account for 1-in-3 cigarettes purchased over the past year....

We wanted to meet with policy advisors and MPPs from all parties to discuss what to do against this growing threat.

They fund organized crime. They facilitate youth smoking. They shortchange taxpayers a phenomenal amount of money."

**~ Gary Grant,
National Spokesperson, NCACT
May 2016**

NCACT's statement that illegal cigarettes account for 33% of the tobacco market contrasts with a 2015 British American Tobacco (BAT, Imperial Tobacco Canada's parent company) report to its own investors showing the contraband market in Canada at approximately 20%.¹² Euromonitor reports the Canadian contraband market decreasing over the past 7 years, contrary to NCACT's assertion that it's growing.¹³

By focusing on crime and the loss of taxes because of illicit cigarettes, the NCACT has in recent years succeeded in recruiting other supporters such as Crime Stoppers and the Canadian Taxpayers Federation.

¹¹ Swan, J. *Institute opposing plain packaging funded by tobacco company*. The Sydney Morning Herald. 31 May 2012. http://www.abc.net.au/mediawatch/transcripts/1420_smhipa.pdf. Accessed 16 June 2016.

¹² British American Tobacco. *Investor Day 2015: Consumer & Market Overview and BAT Performance*. [http://www.bat.com/group/sites/UK_9ZTFM.nsf/vwPagesWebLive/DOA26JQ7/\\$FILE/02_Consumer & Market Overview and BAT Performance.pdf?openelement](http://www.bat.com/group/sites/UK_9ZTFM.nsf/vwPagesWebLive/DOA26JQ7/$FILE/02_Consumer%20&%20Market%20Overview%20and%20BAT%20Performance.pdf?openelement). Accessed 13 June 2016.

¹³ Euromonitor International. *Passport: Tobacco in Canada*. August 2015.

Montreal Economic Institute

The Montreal Economic Institute (MEI) bills itself as an independent, non-partisan, not-for-profit research and educational organization that stimulates debate on public policies by “proposing wealth-creating reforms based on market mechanisms.” The MEI does not reveal its funding sources, except to indicate that the majority comes from foundations and businesses. However, it is known that the Institute accepted funding from Imperial Tobacco Canada and its Foundation between 2002 - 2006.¹⁴

“... economically and legally, plain packaging attacks the basic rights of companies and their shareholders, such as intellectual property, by removing all control over the appearance of their products. It can therefore be seen as abusive expropriation potentially entailing requests for financial compensation.”

~ MEI, May 2016

This right wing think tank’s position that favours less regulation and government intrusion is classic libertarianism. In response to the government’s WNTD plain packaging announcement, the MEI stated that the measure is unproven, and that the consultation should instead focus on the factual evidence regarding its effectiveness. The organization also suggested that plain packaging is an “abusive expropriation” of intellectual property that could trigger legal action for financial compensation.”¹⁵ This is exactly what happened in Australia, which resulted in the tobacco industry’s challenges being dismissed.

While the MEI’s current relationship with the tobacco industry is unclear, what is clear is its general distaste for any government intervention that interferes with the free market. The MEI has previously spoken out against tobacco tax increases and the government’s response to contraband, and has announced a forthcoming research paper on tobacco plain packaging.

Students for Liberty

Students For Liberty (SFL), founded in the United States in 2008, is a student-focused libertarian organization with a mission to educate, develop, and empower the next generation of leaders of liberty. Much like the Montreal Economic Institute, SFL promotes individual liberty, free markets and advocates against “over-regulation.”

¹⁴ Non-Smokers’ Rights Association. *Exposing recent tobacco industry front groups and alliances*. October 2008. https://www.nsr-adnf.ca/cms/file/files/pdf/FrontGroups_Oct_2008.pdf. Accessed 27 June 2016.

¹⁵ Montreal Economic Institute. Press release 31 May 2016. *Consultations on plain packaging: The goal should be to examine its effectiveness*. <http://www.iedm.org/61244-consultations-on-plain-packaging-the-goal-should-be-to-examine-its-effectiveness>. Accessed 14 June 2016.

Its website lists 40 staff and over 1,900 SFL groups globally. However, there are just two Canadian staff members, David Clement and Yael Ossowski (currently based in Vienna), and 6 Canadian student campus coordinators out of 94, all the others being American. Interestingly, Canada is referred to as a region. David Clement is a member of the Libertarian Party of Canada and ran in the Oakville riding for the 2014 Ontario Provincial Election.¹⁶

SFL reports a \$3.8 USD million budget for 2015, listing among its financial supporters the libertarian think tank Cato Institute, the Charles G. Koch Charitable Foundation and the Charles Koch Institute. The Cato Institute has been described as “one of the leading manufacturers of toxic corporate propaganda, cynically

undermining science and scholarship to serve the interests of tobacco companies, oil and gas, chemicals... and other Cato donors.”¹⁷

Both the Cato Institute and its Executive Vice President, David Boaz, were listed as Philip Morris allies in previously secret documents. David Boaz currently sits on the Board of Advisors for SFL.

Billionaire Charles Koch is one of the Cato Institute’s founders, and together with his brother David, currently provides millions of dollars through their foundations to various organizations including conservative and libertarian think tanks. Areas of funding include political advocacy and climate change denial.

Familiar anti-tobacco mouthpieces, including Jasmin Guénette, vice president of the Montreal Economic Institute, and Mikayla

Novak, who has contributed to research by Australia’s Institute for Public Affairs, are listed on the SFL Virtual Speakers Bureau.

It remains unclear if Canadian tobacco manufacturers are directly involved in funding SFL political advocacy in Canada; however, someone offered to pay the travel costs of any students wishing to participate in the anti-plain packaging protest on Parliament Hill. In addition, Big Tobacco is definitely present within the

¹⁶ Libertarian Party of Canada. <https://www.libertarian.ca/candidate/david-clement>. Accessed 15 June 2016.

¹⁷ The Nation. *Independent and Principled? Behind the Cato Myth*. 20 April 2012. <http://www.thenation.com/article/independent-and-principled-behind-cato-myth/>. Accessed 15 June 2016.

organization—Imperial Tobacco was a gold sponsor for the 2015 *European Students for Liberty* conference in Berlin.

On WNTD David Clement was on Parliament Hill handing out chocolate in plain packaging “to mock the growing number of nanny state regulations in Canada.”¹⁸ Despite the offer of travel assistance for students to join him on the Hill, a mere five students were seen participating in the ‘demonstration’.

International Coalition Letter Against Plain Packaging

An undated letter addressed to Dr. Margaret Chan, Director General of the World Health Organization (WHO), signed by 47 think tanks, advocacy groups and organizations, has been circulated on the internet.¹⁹ The letter, which focuses on the importance of protecting intellectual property rights, quotes Davidson’s flawed report and makes incorrect statements about the outcome in Australia, has just one Canadian signatory—the Canadian Taxpayers Federation. Other signatories include My Choice Australia and Forest UK, two virulent anti-tobacco organizations.

Conclusion

Tobacco companies know they can’t win this fight on health arguments, so they are recruiting allies from around the world to argue various different perspectives—loss of freedom/over-regulation; infringement of trademark laws; breach of trade treaties; increased contraband and organized crime.

We will be monitoring what these individuals and organizations say and do as Canada gets ready for plain and standardized packaging. Part of Australia’s success can be attributed to the health and tobacco control organizations that countered, exposed and corrected the lies and hysteria created by the tobacco industry and its mouthpieces. Plain and standardized packaging is working in Australia and it will work here too.

¹⁸ Students For Liberty. Blog, 25 May 2016. *Ontario Students, Stand Against the Nanny State*.

<http://studentsforliberty.org/blog/category/blog/page/3/>. Accessed 15 June 2016.

¹⁹ International Coalition Letter Against Plain Packaging. <http://www.fondazioneLuigieinaudi.it/wp-content/uploads/2016/06/International-Coalition-Letter-against-Plain-Packaging-English-Version.pdf>. Accessed 24 June 2016.



“Plain packaging is spreading to other sectors like alcohol and food; this signals a new level of unjustified government intervention in consumer choice.”

~ David Clement
May 2016