

# Tobacco Plain Packaging Bill 2011

6 July 2011

## House of Representatives Bills

Ms Roxon (Gellibrand – Minister for Health and Ageing) (09:47): I move:

That this bill be now read a second time.

Today I am proud to be introducing the Tobacco Plain Packaging Bill.

This is a world-first initiative, designed to remove the last vestige of glamour from tobacco products. The bill will require that tobacco products be sold in plain, drab dark-brown packets.

The Gillard government is absolutely committed to reducing death and disease brought about by smoking. We want to help protect Australians. That is why we are prepared to lead the world on tackling smoking. Once enacted, these plain packaging laws will be the world's toughest laws on tobacco promotion.

We are taking this action because tobacco is not like any other legal product. When used as intended, it is lethal. Despite Australia's success in reducing smoking rates over recent decades, tobacco remains one of the leading causes of preventable death and disease among Australians, killing over 15,000 Australians each and every year. It is therefore incumbent on us to do all we can to stamp it out.

Take the story of Luke Elliot from Western Australia, who features in one of our most recent antismoking TV campaigns.

Luke's story is about his father Neil. Neil was a pack-a-day smoker who developed lung cancer as a result. Neil was very sick from his cancer, but determined to live to see the birth of his first grandson, James. But sadly, Neil passed away one month before James was born.

Luke's story is heartbreaking. But, sadder still is that Luke's story is only one of 15,000 such stories that play out in families and communities around Australia every year, because that is how many people still die each and every year in Australia from smoking related diseases. That is 15,000 people who do not get to see their son or daughter married, or their first grandchild born. That is 15,000 reasons to act, because by not acting, we are killing people. If we did not do all we could to tackle a known killer, we would be ashamed of ourselves.

Globally, the World Health Organisation estimates that nearly six million people die from tobacco related illness each year, most of them in low-and middle income countries. About three million Australians continue to smoke every day.

That is why in April 2010 the government announced a comprehensive Anti-Smoking Action package aimed at delivering on our commitments to reduce the smoking rate to 10 per cent by 2018 and to halve the rate of smoking among Indigenous Australians over time.

The Tobacco Plain Packaging Bill is part of this important package. Other elements of the package include:

- the 25 per cent tobacco excise increase introduced on 29 April 2010 – this has seen tobacco clearances fall by 8.8 per cent over the last 11 months;
- additional funding for Quitline;
- record investments in antismoking social marketing campaigns – more than \$87 million, including tough new advertisements linking smokers' cough with lung cancer and the first ever national Indigenous antismoking advertisement;
- legislation to prohibit the advertising of tobacco products on the internet – which we hope will pass the Senate this week;
- since February this year, we have provided subsidies for nicotine replacement therapies on the Pharmaceutical Benefits Scheme, to provide that all important support for people trying to quit – with nearly 100,000 scripts issues so far.

The Tobacco Plain Packaging Bill is the latest step in the government's fight to reduce the toll on families from smoking related illness and death.

There is very clear research that supports this approach. The peer reviewed research shows that plain packaging will:

- reduce the attractiveness and appeal of tobacco products to consumers, particularly young people;
- increase the noticeability and effectiveness of mandated health warnings; and
- reduce the ability of the tobacco product to mislead consumers about the harms of smoking.

Plain packaging will remove one of the last remaining forms of tobacco advertising in Australia.

It will restrict tobacco industry logos, brand imagery, colours and promotional text. The packaging will be mandated to appear in a standard, drab dark-brown colour, which has been chosen based on research for the lowest appeal to smokers.

The only thing to distinguish one brand from another will be the brand and variant name in a standard colour, standard position and standard font size and style.

The bill will make it an offence to sell, supply, purchase, package or manufacture tobacco products for retail sale in Australia in anything other than in accord with the plain packaging requirements set out in the bill and regulations. The maximum penalty for committing a fault-based criminal offence – that is, for persons who intentionally or recklessly break the rules – for an individual will be 2,000 penalty units (currently \$220,000), and for a body corporate, 10,000 penalty units (currently \$1.1 million). The maximum penalty amount for a strict-liability criminal offence committed by an individual is 60 penalty units (\$6,600) and by a body corporate 300 penalty units (\$33,000). The offences will not apply to people who purchase cigarettes for their personal use.

An update to the current graphic health warnings to increase the coverage on the front of the pack from the current 30 per cent to 75 per cent, along with updated imagery and warnings, will accompany the introduction of plain packaging so that, rather than being a marketing tool, the pack will only serve as a stark reminder of the devastating health effects of smoking.

We know packaging is a very powerful marketing tool for tobacco companies – particularly for recruiting new smokers to the deadly products. There is ample research to support this approach. But the evidence in support of it is not only in the 24 – and counting – peer-reviewed journal articles; compelling evidence that packaging is a powerful marketing tool for promoting tobacco smoking can also be found in big tobacco's reaction to this very initiative itself. Big tobaccos are fighting so vigorously against this legislation for one very simple reason – because they know, as we do, that it will work.

Tobacco companies are fighting to protect their profits; but we are fighting to protect lives.

I am delighted that some of the public health experts and officials who have fought so hard over many decades to reduce the death and disease caused by tobacco products are in the public gallery watching the introduction of this historic legislation into the parliament today. Can I particularly say that it gives me great pleasure that the parliament has been able to accommodate Mike Daube on his 63rd birthday. I hope that this is a good birthday present for him.

Some of these experts sat on the national Preventative Health Taskforce – just one of the national health bodies who have joined the World Health Organisation in recommending plain packaging of tobacco as a means of reducing smoking rates.

The Preventative Health Taskforce was commissioned by the Australian government in 2008. Its report, release in September 2009, concluded that 'there can be no justification for allowing any form of promotion for this uniquely dangerous and addictive product' – including on the packaging.

In line with the international evidence, the taskforce said plain packaging would:

- increase the impact of health warning messages;
- reduce the ability of tobacco companies to mislead consumers into believing that some cigarettes are less harmful than others;
- make cigarettes look less attractive, and

- reduce the appeal and desirability of smoking generally.

But it is not just our national taskforce which believes this. Plain packaging has been discussed in various international forums over the past 25 years.

Our legislation will give effect to commitments under the World Health Organisation Framework Convention on Tobacco Control, which recommends that plain packaging be considered as part of comprehensive bans on tobacco advertising and as a way of ensuring that consumers are not misled about the dangers of smoking.

Australia is the first signatory to the framework and the first country in the world to commit to implementing these recommendations on plain packaging – cementing our reputation as a world leader in tobacco control.

As well as being based on ample evidence and careful advice of experts, this bill is the result of wide-ranging consultation: the Preventative Health Taskforce undertook detailed consultations on tobacco control reforms in the preparation of their report; since the government announced its intention to introduce plain packaging, the Department of Health and Ageing has undertaken targeted consultations with organisation representing large and small retailers, with cigarette and cigar importers and with the major tobacco manufacturers; and the government held a 60 day public consultation period on an exposure draft of this bill. Consultation on the exposure draft of the bill showed overwhelming support for the measures we are proposing, from public health groups both within Australia and internationally.

In addition, we have listed to concerns raised with our proposals during these consultations – and legitimate concerns have now been taken up in the final bill.

For example, to assist in identification of illicit tobacco products, manufacturers will be permitted to include certain design features that do not run counter to the public health objectives of the measure.

The brand name will be permitted on the top, front and bottom of cigarette packs to assist retailers in handling tobacco products.

All product manufactured in Australia will need to comply with plain packaging as of 20 May 2012. This will allow retailers plenty of time to restock and ensure that they have disposed of non-compliant product before 1 July 2012.

To assist small-scale importers and small business with compliance, imported tobacco products will be able to be repackaged after importation into Australia.

Of course, despite the sound evidence on which these measures are based and wide-ranging consultation prior to the bill's introduction, our plain packaging plans have met with fierce opposition from big tobacco companies.

Since April 2010, big tobacco has been doing everything in their power to fight the government politically and legally on the issue – and we know they will stop at virtually nothing.

They were quick to establish a group to front their activities – the Alliance of Australian Retailers. The alliance ran a multimillion dollar advertising campaign against the government during the last federal election campaign. Now the industry has ramped up its campaign, including through invoking the 'nanny' state. The campaign is the latest in a decades long fight against what is good for it consumers and what is good for the community.

They have claimed plain packaging 'won't work' – but if it won't work, why are they pouring millions of dollars and throwing all their corporate might into opposing it?

Since April 2010, the Department of Health and Ageing has had to handle over 40 freedom of information requests generated by two of the global big tobacco giants. Let us be clear, the intention of these requests is to disrupt the department's business and resources. The most recent advertising campaign aims to scare the public into believing that plain packaging will cost taxpayers and the government billions of dollars in legal action that it will increase the availability of illegal tobacco in the community, and will increase the number of cigarettes sold to children.

One video available on the internet claims a link between plain packaging, murder, heroin, prostitution and the Russian mafia! These claims are becoming increasingly hysterical and increasingly desperate. Because not only do they know that plain packaging will work; big tobacco also know that if we are successful in implementing these measures in Australia, other countries will follow.

I conclude by saying again that the Gillard government are absolutely determined to do all we can to tackle the harm caused by smoking.

The Gillard government is proud to be leading the world in the fight against tobacco by introducing the world's toughest tobacco promotion laws.

We want to ensure that in the future, people like Luke Elliot's dad, Neil, never start smoking in the first place, and as a result, live to see their first grandchild born.

It is with great pride that I commend the bill to the House.