

MEDIA RELEASE

ICC BASCAP Issues Comments Denouncing Proposed Australian Plain Packaging Regulation

Paris, 7 June 2011

The International Chamber of Commerce (ICC) Business Action to Stop Counterfeiting and Piracy (BASCAP) initiative today called on the Australian government to reject proposed regulations requiring tobacco product packaging to be stripped of trademarks and product designs differentiating one brand from another.

In comments submitted to the Department of Health and Ageing in response to the call for public input on the proposed legislation, BASCAP said it is “very concerned” about the Plain Packaging Bill 2011. This legislation would create a dangerous precedent that could have far-reaching impacts on the use of trademarks and other intellectual property in Australia and globally, ICC stated in its comments.

“Our members strongly support the protection of public health, and we are not questioning the adverse consequences of long-term tobacco use or the government’s role in reducing tobacco use,” said Jeffrey Hardy, Coordinator of ICC’s Business Action to Stop Counterfeiting and Piracy (BASCAP) initiative. “However, the solution being proposed is simply wrong and bad public policy. We urge the Australian government to consider policy alternatives to the ‘plain packaging’ proposal, that would further the government’s health policy goals without creating a dangerous precedent with negative consequences that go far beyond the aims of the new rules.”

Restricting trademarks and branding of products removes a valuable accountability and responsibility mechanism that consumers depend on to make the best choices in the marketplace, according to ICC.

“Plain packaging makes it easier for packaging to be copied by counterfeiters, exposing consumers to products with unknown and potentially dangerous ingredients, and it makes it more difficult for consumers to identify the manufacturer responsible for responding to complaints or problems,” Mr Hardy said.

This policy would reduce brand owners’ ability to take action against counterfeiters. And it would also increase the burden on already overstretched public agencies working to enforce intellectual property protection in the face of escalating counterfeiting and piracy throughout Australia and worldwide.

“The ability of brand owners to market their product in unique and easily identifiable ways is fundamental to the protection of intellectual property rights in developed societies,” Mr Hardy said. “Removing one industry’s ability to use its intellectual property rights opens the door to extend this violation of IP rights to other industries and other brand owners in Australia and elsewhere.”

Several governments have previously considered and rejected plain packaging as a solution to controlling tobacco use. There has been no research and no data to support plain packaging as a deterrent to smoking.

“The proposed regulations undermine the Australian government’s goals of fostering and encouraging the growth of markets for Australian products,” Mr Hardy said. “Australia has been a leading voice in support of IP and rules-based commerce, but the proposed regulations mandating the elimination of trademarks and trade dress are in direct and dangerous conflict with this view.”

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About the International Chamber of Commerce

The International Chamber of Commerce is the largest, most representative business organization in the world. Its hundreds of thousands of member companies in over 120 countries have interests spanning every sector of private enterprise.

A world network of national committees keeps the ICC International Secretariat in Paris informed about national and regional business priorities. More than 2,000 experts drawn from ICC's member companies feed their knowledge and experience into crafting the ICC stance on specific business issues.

The United Nations, the World Trade Organization, the G20 and many other intergovernmental bodies, both international and regional, are kept in touch with the views of international business through ICC.

For more information please visit: www.iccwbo.org

About BASCAP

The drain on businesses and the global economy from counterfeit goods and piracy of intellectual property is of great concern to ICC member companies worldwide. Business Action to Stop Counterfeiting and Piracy (BASCAP) is an ICC initiative that unites the global business community across all product sectors to address issues associated with intellectual property theft and to petition for greater commitments by local, national and international officials in the enforcement and protection of intellectual property rights. Visit: www.iccwbo.org/bascap