

U.S. Chamber of Commerce Position on “Plain Packaging”

The U.S. Chamber of Commerce strongly supports measures to protect public health and recognizes the importance of reducing smoking rates. However, we believe that standardized packaging — also known as “plain packaging” — undermines lawful protection of intellectual property, does not advance public health goals, violates international agreements, and sets a dangerous precedent for other industries.

Protection of trademarks is a priority for the U.S. Chamber. A company’s reputation is built over years of providing high-quality, fairly priced and reliable products and services. Its brand is its most valuable asset. Trademarks protect the reputation of companies and their products and prevent consumer confusion and deception. Plain packaging undermines the value of trademark protections by depriving brand owners of the ability to use their mark in commerce, resulting in a loss of investment and jobs.

The Chamber is also concerned that standardized packaging requirements do not advance public health goals and may have unintended consequences. Several studies have shown that, where plain packaging laws have been implemented, there is a risk of increased consumption of illicit and possibly counterfeit products. Counterfeit tobacco products create additional health and safety concerns, including the possible consumption of unregulated products containing dangerous contaminants. Moreover, purveyors of illicit and counterfeit products often are linked to criminal organizations, which, in addition to their illegal undertakings, do not generate tax revenue.

Plain packaging legislation also violates the international agreements that protect the intellectual property of all industries. This includes obligations countries have accepted as parties to the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), the Paris Convention of Industrial Property (Paris Convention), and the WTO Agreement on Technical Barriers to Trade (TBT).

Finally, state-sponsored attacks on trademarks could invite retaliation, threatening the well-being of virtually any industry. Indeed, similar measures have been considered for processed foods, wine & spirits, and sugary beverages.

In summary, plain packaging requirements do not advance public health goals, may unintentionally foster illicit trade, violate international agreements, and set a dangerous precedent for other industries. The U.S. Chamber urges that plain packaging requirements be rejected and that measures intended to safeguard public health be designed in a way that does not undermine the effective protection of intellectual property rights.