



17 June 2014

(14-3499)

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Committee on Technical Barriers to Trade

Original: English

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6

1. Notifying Member: <u>IRELAND</u> If applicable, name of local government involved (Article 3.2 and 7.2):
2. Agency responsible: Tobacco & Alcohol Control Unit, Department of Health Name and address (including telephone and fax numbers, email and website addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above: Tobacco & Alcohol Control Unit, Department of Health, Hawkins House, Hawkins Street, Dublin 2, Ireland Telephone: 00 353 1 635 4000 Fax: 00 353 1 635 4552 Email: tobacco@health.gov.ie Website: http://www.dohc.ie
3. Notified under Article 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], other:
4. Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): The Bill relates to retail packaging of all tobacco products, the appearance of cigarettes, and the presentation of tobacco products. TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES (HS 24); Tobacco, tobacco products and related equipment (ICS 65.160).
5. Title, number of pages and language(s) of the notified document: Public Health (Standardised Packaging of Tobacco) Bill 2014 (24 pages, in English).
6. Description of content: The Bill relates to retail packaging of all tobacco products, the appearance of cigarettes and the presentation of tobacco products. Upon enactment, the Bill will give effect in part to Directive No. 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC. Retail Packaging of all tobacco products must be of a prescribed colour (outer and inner surfaces), not have decorative ridges or embellishments, any adhesive used must be none coloured, not bear a mark or a trade mark, other than health warnings or barcode. Brand and variant names may appear but only as prescribed. The pack cannot contain any inserted or affixed items other than those required by law. Any wrapper must be transparent, uncoloured with no decorative ridges etc., not bear mark or trade mark other than a tear-strip as prescribed and not have anything affixed to it. Cigarettes must be covered in white paper, have a white filter tip with a covering that can be white or imitation cork. Brand and variant name may appear on cigarettes but only as prescribed. Where there is a lining it shall be of such a prescribed colour and material.

The Retail packaging of all tobacco products cannot contain any audio effects or scents or any feature designed to alter the packaging after sale by retail. The Bill sets out offences and penalties in relation to the packaging, manufacture, import or sale of tobacco products contained in non-compliant retail packaging and for the manufacture, import and sale of non-compliant cigarettes. The Bill provides for the removal from the register for the sale of tobacco products in the event that an offence is committed under the Bill. Finally, the Bill provides for the powers of authorised officers to enforce the legislation.

Secondary legislation for details contained within the scope of the Bill will be drafted. For example, the colour, font type, font size, position and appearance of where the brand and variant name can be printed on tobacco products will be set out in regulations.

7. Objective and rationale, including the nature of urgent problems where applicable: Protection of Human health or Safety; Prevention of deceptive practices and consumer protection.

Ireland's public health policy objective in relation to tobacco control is to promote and subsequently move towards a tobacco free society. The cumulative effect of the tobacco control legislation and public health policies to date has been a decrease in the number of people smoking. In 2013, the National Tobacco Control Office reported that 21.5% of Irish adults smoked (22.9% men and 20.2% women). This represents a decline of 2.2% since 2010, and a decline of 7.5% since 2007 when the last comprehensive large scale study on smoking prevalence in Ireland was undertaken (SLAN study).

Smoking is the leading cause of preventable death in Ireland. Each year at least 5,200 people die from diseases caused by tobacco use, equating to almost one in five of all deaths.

Apart from the human costs due to the tragic deaths and illness attributable to smoking there is a real economic cost. A very conservative estimate of this for 2009 is in the region of €664 million. This is composed of €498 million in health expenditure, €15 million in productivity losses due to absenteeism and €151 million in productivity losses due to long term incapacity. The figure of €498 million in 2009 represents 3.52% of health care spending in that year and 0.31 % of GDP.

To date Ireland has been to the forefront of tobacco control legislation in Europe. The Public Health (Tobacco) Acts 2002 and 2004 aim to protect people from the dangers of tobacco consumption and from second hand smoke. Under existing legislation, there is a ban in place on smoking in the workplace, a ban on tobacco advertising and sponsorship, and a ban on the display of tobacco products in shops. Regulations concerning health warnings on tobacco products came into force on the 1st February 2013; from that date all tobacco products placed on the market must display combined text and graphic warnings. Regulations controlling sales promotions of tobacco products came into force on 23rd December 2013, the effect of which is to prohibit certain types of promotion where tobacco products are offered at a reduced price, or free of charge for a limited period of time, or on the purchase of another tobacco product or other products. These measures, as well as others, have succeeded in reducing the prevalence of smoking in Ireland from 33% in 1998 to 21.5% in 2013. A further piece of legislation which will prohibit the smoking of tobacco products in vehicles where children are present is currently going through the Irish parliament and should be enacted before the end of the year.

In order to make further impacts on the smoking prevalence in Ireland, particularly on smoking initiation among young people, additional initiatives are required in order to build on the positive effects experienced so far deriving from Ireland's tobacco control legislation and public health policies.

Ireland's policy on smoking is to promote and subsequently move towards a tobacco free society. Tobacco Free Ireland, the latest policy document in the area, sets a target for Ireland to be tobacco free by 2025. In practice this will mean a smoking prevalence rate of less than 5%. The two key themes underpinning the report are protecting children and the denormalisation of smoking.

Tobacco Free Ireland approved by Government and launched in October 2013, addresses a range of tobacco control issues and initiatives and contains over 60 recommendations, including the introduction of standardised packaging of tobacco products. It is the first

policy document to be published under the Healthy Ireland – A Framework for Improved Health and Wellbeing 2013 - 2025, which was also launched in 2013. The current health status of people in Ireland, lifestyle trends and inequalities in health outcomes are leading us towards a dangerously unhealthy and unaffordable future. Healthy Ireland sets out a vision that will improve the health and wellbeing of all the population of Ireland over the next 12 years. It puts forward a "whole of society" approach and new arrangements to ensure more effective co-operation to achieve better outcomes for all.

The World Health Organisation Framework Convention on Tobacco Control (FCTC) to which Ireland is a signatory, provides the international context for tobacco control measures. The guidelines for implementation of Article 11 of the Convention state that "Parties should consider adopting measures to restrict or prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style (plain packaging). This may increase the noticeability and effectiveness of health warnings and messages prevent the package from detracting attention from them and address industry package design techniques that may suggest that some products are less harmful than others".

The revision of the EU Tobacco Products Directive was a priority for Ireland during its EU Presidency in 2013. The European Council has now formally adopted the Directive, and it has been in force from 20th May 2014. Member States have two years to transpose the new rules into national law. Areas covered by the revised Directive include labelling and packaging, ingredients and emissions, traceability and security features and cross border distance sales of tobacco. While the revised Directive does not go so far as to introduce standardised packaging on an EU-wide basis, it provides that it shall not affect the rights of Member States to introduce further requirements in relation to standardised packaging.

Standardised packaging forms the latest strand of a comprehensive range of tobacco control legislation already in place in Ireland aimed at decreasing tobacco consumption. Evidence shows that tobacco branding works in three key ways:

- Packs are designed to be attractive and to communicate the personality of the brand;
- Lighter coloured packs mislead consumers, falsely suggesting that some tobacco products are healthier than others;
- Branding on packs reduces the prominence and effectiveness of health warnings.

Standardised packaging means that all forms of branding – trademarks, logos, colours and graphics – would be removed, except for the brand and variant name, which would be represented in a uniform typeface for all brands on the market. All packs would be in a plain neutral colour, except for the mandatory health warnings.

There is a wealth of evidence to support the introduction of standardised packaging. Research shows that standardised packaging will:

- Increase the noticeability, recall and impact of health warning messages;
- Reduce the ability of packaging to mislead consumers to believe that some products may be less harmful than others; and
- Reduce the attractiveness of the tobacco product, for both adults and children.

8. Relevant documents:

1. Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC
2. Public Health (Standardised Packaging of Tobacco) Bill 2013
3. Public Health (Standardised Packaging of Tobacco) Bill 2014 Explanatory Memorandum
4. Regulatory Impact Analysis (to be provided shortly when available)

<p>5. Healthy Ireland – A Framework for Improved Health and Wellbeing 2013-2025 (2013) http://www.dohc.ie/publications/pdf/HealthyIrelandBrochureWA2.pdf?direct=1</p> <p>6. Tobacco Free Ireland (2013) http://www.dohc.ie/publications/pdf/TobaccoFreeIreland.pdf?direct=1</p> <p>7. Standardised Packaging of Tobacco Products Evidence Review http://health.gov.ie/wp-content/uploads/2014/06/Standardized-Packaging-of-Tobacco-Products-Evidence-Review.pdf</p> <p>8. Plain Tobacco Packaging - A Systematic Review http://phrc.lshtm.ac.uk/papers/PHRC_006_Final_Report.pdf</p> <p>9. Plain Tobacco Packaging Research - An Update http://www.stir.ac.uk/media/schools/management/documents/Plain%20Packaging%20Studies%20Update.pdf</p> <p>10. Standardised packaging of tobacco - Report of the independent review undertaken by Sir Cyril Chantler http://www.kcl.ac.uk/health/10035-TSO-2901853-Chantler-Review-ACCESSIBLE.PDF</p>
<p>9. Proposed date of adoption: To be determined Proposed date of entry into force: To be determined</p>
<p>10. Final date for comments: 90 days from notification</p>
<p>11. Texts available from: National enquiry point [X] or address, telephone and fax numbers email and website addresses, if available, of other body:</p> <p>Trade Policy Unit, Department of Jobs, Enterprise and Innovation 23 Kildare Street Dublin 2 Phone: + (353 1) 6321409 Fax: + (353 1) 6312562 Email: trade@djei.ie Website: www.ent.ie</p> <p>http://members.wto.org/crnattachments/2014/TBT/IRL/14_2757_00_e.pdf http://members.wto.org/crnattachments/2014/TBT/IRL/14_2757_01_e.pdf http://members.wto.org/crnattachments/2014/tbt/IRL/14_2757_02_e.pdf</p>