



## ABSTRACT

### PLAIN PACKAGING – QUO VADIS? AN INDUSTRY PERSPECTIVE

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*Why can't I be different and unusual....like everyone else?*  
Viv Stanshall, singer-songwriter

Differentiation is oxygen for brands. For a product to earn space in a person's busy mind, it has to stand out – to be memorable. Differentiation provides good reasons for the individual to remember a product, to relate to it, feel positive about it and ultimately to prefer it. Intellectual property supports the need to be different with its legal protection for the distinctive and the novel.

From 'different' can flow real benefits such as choice, diversity, better solutions and, for some, a means of self-expression. It can broaden competition, on quality, innovation and reputation as well as price, and increase the scope for innovation, yielding better ways of living and working.

'Different', generally speaking, is good. However proposals to limit significantly the ability to differentiate tobacco products seek to shift an entire consumer category from the differentiated to the similar, from the branded to the commodity, on the premise that differentiation may have negative effects. It is unquestionably a significant regulatory intervention.

The presentation title asks *Plain packaging – Quo vadis?* The short answer is "no-one knows". The policy may have been introduced in Australia but it is far too early to assess any impact. However, I will explore the implications for the tobacco category and the wider implications for industry.

The declared objectives of plain packaging are to discourage young people from taking up smoking, encouraging smokers to stop and to make it easier for reformed smokers to keep away from the habit. I suspect we all strongly support these objectives. At issue is the extent to which plain packaging will achieve them or whether it may make matters worse.

#### **Quo vadis – for tobacco consumption?**

Plain packaging raises important questions on the effect of packaging and branding on product consumption. Packaging plays a significant commercial role in many categories – perfume is a good example – but to what extent may it persuade us to buy a product in which we otherwise have no interest, especially when we are told so clearly it is dangerous to our health? Similarly, to what extent does differentiation and branding influence consumption? What of their effects in those markets such as the UK, Ireland and Australia where no packaging may be visible at point-of-sale?

It may be argued that tobacco products are so undesirable that any policy that might conceivably reduce consumption is worth trying, whether or not there is evidence of its efficacy. An intervention that undermines branding so fundamentally however may well have significant unforeseen consequences, delivering results opposite to those intended.

An undifferentiated marketplace is a commodity marketplace in which competition is focused predominantly on price. Increased price competition would bring prices down, potentially resulting in people smoking more. Were policymakers to compensate by increasing duty, it would increase potential rewards for grey and counterfeit traders.



In a regulated commodity marketplace, new market entrants will most likely focus innovation effort on reducing price, being the element most visible to consumers. This would fuel price competition. Meanwhile companies may be discouraged from investing in higher quality or potentially 'safer' products or reputation as any benefits arising cannot be signalled easily to consumers.

Were all products to look the same, consumers are likely to believe they are essentially the same. In a price-led market, consumers may be more receptive to counterfeit products. Such a demand-side effect is likely to be accompanied by supply-side effects. Standardised, uncomplicated packaging is relatively easy to produce on freely-available, reasonably priced printing and production equipment, removing barriers to counterfeiting and increasing rewards from such trade.

Other factors also need to be considered, including human ingenuity and resourcefulness, seen in Australia with the new market in skins which obliterate health warnings and truly make packs "glitzy".

### **Quo vadis – for industry**

Will plain packaging undermine business confidence in the EU IP system? Currently businesses acquire IP rights on the understanding that they will be free to invest in and use them. Were the state to suddenly withdraw IP rights they had previously granted, whether or not with compensation, it is hard to envisage that wider confidence in the system will remain unaffected.

What of the risks for categories beyond tobacco? I have heard policy makers argue that tobacco is unique, warranting solutions inapplicable to other categories, something we heard before during consultations on advertising restrictions and on-pack health warnings. In the UK, a parliamentary select committee raised plain packaging in relation to the Government's alcohol strategy but it was not developed. The focus of the current discussion, in Europe at least, is very much on tobacco.

The tobacco category is being used in Australia as a guinea pig for a new policy intervention and within a few years we may understand better the effects there on consumption, innovation, competition, grey trade and counterfeits. We may also understand better the perspective of the WTO and the scope of IP rights. It is an area the British Brands Group will watch and monitor closely.