

GOVERNMENT RESPONSE
TO THE REPORT OF
THE SENATE COMMUNITY AFFAIRS REFERENCE COMMITTEE

**THE TOBACCO INDUSTRY AND
THE COSTS OF TOBACCO-RELATED ILLNESS**

September 1997

3.10 GENERIC PACKAGING

COMMITTEE RECOMMENDATION:

Recommendation 18:

“That additional research be undertaken into the efficacy of generic packaging of tobacco products as a means of addressing the problem of juvenile smoking”.

RESPONSE:

The Commonwealth is addressing the issues of youth smoking through a sustained multi-faceted approach, which includes health warnings on packaging to improve consumer, including youth, knowledge of the health effects of tobacco consumption. The Commonwealth will commission further investigation of the efficacy of generic packaging as a means of enhancing the impact of package warnings.

BACKGROUND:

Between 1991 and 1994, while consideration was being given by the Ministerial Council on Drug Strategy (MCDS) to the issue of health warnings and tobacco labelling, the issue of generic packaging was raised. In its final report in 1992, the MCDS taskforce on tobacco stated that the recommendations of the Centre for Behavioural Research in Cancer on packaging and labelling of tobacco products be adopted, including:

- C the introduction of strengthened health warnings, explanation of these health warnings, and contents information; and
- C the introduction of standard packaging for all tobacco products with specified package composition, colour, finish, print font and point size.

A decision was made in 1993 by MCDS that, rather than pursuing the issue of generic packaging, Governments would use a wide range of strategies to focus public attention on the health effects of smoking, including strengthened health warnings on tobacco products. A national system of strengthened health warnings was subsequently introduced in 1994 by the Commonwealth under the *Trade Practices (Consumer Product Information Standards) Tobacco Regulations*.

A number of health groups have recently called for the introduction of generic packaging for tobacco products in both submissions to the Commonwealth and to the Senate Inquiry on the Tobacco Industry and the Costs of Tobacco-Related Illness.

In response to the mounting interest in generic packaging, the Commonwealth obtained advice from the Attorney General's Department on the legal and constitutional barriers to generic packaging. This advice indicates that the Commonwealth does possess powers under the Constitution to introduce such packaging but that any attempt to use these powers to introduce further tobacco control legislation needs to be considered in the context of the increasingly critical attention being focussed on the necessity, appropriateness, justification and basis for regulation by such bodies as the Office of Regulatory Review, the High Court, and Senate Standing Committees. In addition, further regulation needs to be considered in the context of Australia's international obligations regarding free trade under the General Agreement on Tariff and Trade (GATT), and our obligations under international covenants such as the Paris Convention for the Protection of Industrial Property, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

To date, generic packaging of tobacco products has not been implemented anywhere in the world. As such, there is no international experience of the effect of generic packaging on consumer behaviour. In addition, there is limited primary research on the potential effect of generic packaging on the factors underlying or relevant to the uptake and cessation of tobacco consumption.