



Government
of Canada

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du Canada

Toward Zero Consumption

Generic

Packaging of

Tobacco Products

Government Response to

the First Report of the

Standing Committee on Health

November 1994

Canada

502604998

The Honourable Roger Simmons
Burin-St. George's (Newfoundland)
House of Commons
Ottawa, Ontario
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Dear Roger:

I am writing in response to the Report of the Standing Committee on Health, "Toward Zero Consumption: Generic Packaging of Tobacco Products" which you presented to the House on June 21, 1994.

As you know through your work, Canada has displayed early leadership and initiative in reducing tobacco use. It is important, however, that we continue our efforts to reduce further the adverse consequences of tobacco addiction among smokers and non-smokers alike. The Report of the Standing Committee on Health which you chair serves to highlight the number and complexity of issues associated with tobacco control and heighten public awareness about this destructive public health problem. As such, it represents a significant contribution to the worldwide efforts in this area.

I would like to thank you and the rest of the Committee members for your thoughtful and diligent work on the Report.

Yours sincerely,



Diane Marleau
Minister of Health

502604999

Canada prides itself in having taken an early and continuing leadership role in combatting smoking and in regulating the sale, marketing, promotion and labelling of tobacco products. On June 21, 1994, the House of Commons Standing Committee on Health published *Toward Zero Consumption*, a report that is a significant contribution to worldwide efforts to control tobacco products and reduce the enormous health toll exacted by them. The Government recognizes the complexity of this difficult issue and thanks the Standing Committee for its diligent efforts.

The use of, and addiction to, tobacco products, predominantly cigarettes, but also smokeless tobacco products (chewing or "spitting" tobacco, and nasal snuff), with their serious chronic disabling disease and premature death consequences, represents an ongoing epidemic of great public health significance for Canada and other countries. Canadians live longer than ever, on average, and have largely accommodated to the public health measures that have been integrated into society to control or even eliminate the major causes of infectious disease, such as water chlorination and school-based vaccination programs. The slow-motion epidemic of chronic disease caused by tobacco is proving harder to grasp, especially because tobacco products are legally manufactured and distributed by Canadian and multinational corporations taking full advantage of the product's legal status. The tobacco industry has opposed some government regulatory measures to control the marketing and promotion of their products. Moreover, both the federal and provincial governments have traditionally raised significant revenues on tobacco products through commodity taxation measures. In view of the widespread prevalence of smoking through all age and sex groups of the population (while now reduced to one-third of the adult population) and of the long history of tobacco use and addiction by Canadians, retaining tobacco's legal status is the only realistic framework within which to discuss further options for control.

As the Standing Committee noted, if tobacco products had just been developed and access to markets were being sought, they would never be allowed. The historical anomaly of tobacco as a legal product, however, must not blind us to the very serious nature of the harm done by tobacco products, and the implications for population health. Because the use of tobacco products is affected by the complete range of socio-cultural and marketing dimensions of society as a whole, comprehensive measures against smoking must be designed to simultaneously address as many of the relevant factors as possible. Yet, despite Canada's impressive efforts and successes to date, continued progress against tobacco addiction cannot be taken for granted.

New cohorts of impressionable young people arrive yearly at those ages - between 10 and 15 in recent years - where they are vulnerable to experimenting with a variety of risky behaviours, including tobacco use (smoking cigarettes and, in some regions, using smokeless tobacco products). Obviously, no government could expect the adventurous years of adolescence to be entirely free of risk. Openness and

experimentation also lead to growth, sometimes through difficult mistakes and errors of judgement. Because of their legal status and strongly addictive nature, however, tobacco products pose unique risks to young people. The risks of tobacco are insidious, because they are less obviously apparent than the widely shared and worrisome concerns surrounding intoxication and acute impairment due to alcohol and drug abuse. In fact, as studies have shown, learning to modify mood through smoking comprises a behavioural link associated with other forms of drug use and abuse.

The numbers of deaths attributable to tobacco will continue to rise. Scientific understanding of the epidemiology of tobacco disease is advanced enough that accurate estimates and projections of tobacco-related deaths can be calculated on an annual basis. Due to the relatively long latency period of the chronic, disabling conditions caused by tobacco use, this year's toll of some 40,000 premature Canadian deaths is the fallout of smoking patterns two decades ago. Then, nearly six out of ten men and two out of five women were daily smokers. Even though a smaller proportion of Canadian women now smoke than in 1970, lung cancer has overtaken breast cancer as a cause of death for women in Canada. This year, over 5,000 Canadian women will lose the battle with lung cancer. The personal costs of these preventable disabling conditions and premature deaths are borne by families and friends. The health costs are a significant contributor to Canada's health care expenses. Unless we are prepared to accept the absurd notion that long life itself constitutes a health system burden, we must recognize that the social costs of tobacco addiction by youth are ultimately accounted in lost productivity and disabling conditions which limit our possibilities after retirement age.

Canada cannot afford to lose the tobacco battle on the health, economic or political fronts, for the sake of this country's well-being and as an example to developing countries just beginning to grapple with the health and social dimensions of tobacco product marketing. Canada must be seen to be committed to any and all of the initiatives compatible with our democratic traditions that can contribute to tobacco reduction. We must take measures to persuade youth not to take up smoking or any other form of tobacco use, all of which seriously risk tobacco addiction; we must dissuade smokers from continuing to use tobacco; and we must protect, to the extent feasible, non-smoking Canadians from involuntary exposure to the poisons in environmental tobacco smoke.

To be sure, generic packaging of cigarettes cannot be expected to bear the entire burden of so broad an array of population health goals related to tobacco products. However, less alluring tobacco product packaging, designed to accommodate concerns about possible unintended impacts that could thwart or undermine health policy objectives, is viewed by the Government as a potentially significant component of its Tobacco Demand Reduction Strategy.

Responding to the Standing Committee's Recommendations

1. That the federal government establish the legislative framework required to proceed with plain or generic packaging of tobacco products.

The Government agrees with the Standing Committee's majority conclusion that generic packaging could be a reasonable step in a comprehensive strategy to reduce tobacco consumption. The Government also recognizes, however, that a number of factors must be addressed before generic packaging can be introduced as a workable and useful control measure. As a result, the findings of an Expert Panel on the role of generic packaging in reducing the inducement to purchase and use tobacco products will be taken into account, as will the international trade, contraband and economic implications of generic packaging. The Government will consult with relevant stakeholders when assessing each of these implications.

The legal ramifications of generic packaging must also be considered. The constitutionality of Canada's existing tobacco control legislation, the *Tobacco Products Control Act*, has been challenged by the tobacco manufacturing industry. Consequently, any decision by the Government to seek further modifications to tobacco product packaging will be taken in the context of the ruling of the Supreme Court of Canada, currently anticipated in 1995.

2. That the legislation be introduced when Health Canada concludes its current study on the effects of plain packaging on tobacco consumption, if the results of that study support the available evidence that such packaging will reduce consumption.

Those who testified in favour of generic packaging, the results of such studies as are currently available, and the Standing Committee on Health itself converge on the youth factor as the litmus test for reducing the allure of smoking. Smoking and the tobacco-related disease epidemic are sustained by a number of factors including adult or peer example, pre-teen and teenage curiosity and risk-taking, addiction to the products themselves and tobacco-related promotion of the sponsorship of sporting and cultural events. The critical elements of strategic efforts to reduce smoking must resonate with young people struggling to find and establish their social identities. Even supporters of generic packaging conceded that they might have less impact on addicted young adults and established adult smokers. But if generic packaging, as a reasonable public health policy initiative, can diminish the inducement to purchase and smoke cigarettes, and to brandish cigarette packages, among the age groups vulnerable to experimenting with cigarettes, then consideration should be given to making tobacco products in Canada available only in generic packages.

The Government shares the Standing Committee's belief that existing suggestive studies of the impact of plain packaging could be strengthened by further evidence, while at the same time recognizing that no study is likely to prove definitive. However, studies must be based on sound methodologies, and their conclusions must be supportive of available work in this field before decisive action can be taken on tobacco packaging. To that end, an Expert Panel comprised of specialists in marketing, package design and consumer behaviour, and chosen in collaboration with provincial and territorial partners in the National Strategy to Reduce Tobacco Use, has established a Study Framework designed to determine what relationship may exist between generic packaging and the taking up of smoking by youth.

Health Canada will thoroughly review and analyze both existing and newly available evidence being assembled by the Expert Panel by way of studies on youth attitudes, tobacco packaging options and youth affect and perception measurements. In so doing, Health Canada will take into account the Standing Committee's discussion with respect to the burden of proof by identifying an approach to generic packaging that is reasonable in view of the accumulated and appropriately weighted evidence.

3. That the federal government require that plain or generic packages be produced in a manner that minimizes the possibility of contraband products, and that the design incorporate printing and packaging technologies that will make duplication as difficult as possible.

The Government clearly is not prepared to adopt further tobacco control measures that risk undermining their own rationale by being unworkable or by providing counterproductive incentives. In particular, the legal, trade, contraband and economic impact implications of the specific findings on generic packaging to be provided by Health Canada's Expert Panel will require careful assessment. If effective generic packaging approaches can be identified, Health Canada is committed to consulting to ensure that the recommended approach reasonably accommodates the non-health concerns identified in testimony before the Standing Committee. The Government will examine the extent to which generic packaging can be designed to both accomplish its role in the anti-tobacco strategy and at the same time mitigate the undesirable effects on production and employment in the Canadian rotogravure printing industry, as well as in the areas of tobacco growing and wholesale and retail of tobacco products.

Moreover, the Government recognizes that there are trademark and other obligations under international trade agreements such as NAFTA and the World Trade Agreement which might be relevant to a generic packaging proposal. However, these treaties also contain provisions allowing exceptions to obligations. The Government will ensure that any measure Canada chooses to adopt will not only protect the health of

Canadians, but will also be consistent with Canada's international trade and intellectual property obligations. Similarly, it is essential to avoid any resumption in the contraband tobacco trade that was witnessed in the early 1990s.

The sale and use of tobacco products has over time become intertwined in Canadian society and the economy. Measures designed to reverse the marketing and use of tobacco products will inevitably have collateral effects that cause discomfort to some Canadians' livelihoods. Ultimately, the health and productivity of Canada are inconsistent with tobacco addiction. Should a generic packaging approach be determined to be workable, the Government reaffirms that it will pursue every means available to reduce tobacco use in ways that are consistent with our democratic society.