

 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Standardised packaging for tobacco products	
Lead Department/Agency	Department of Health	
Stage	Consultation	
IA Number	3080	
Origin	Domestic	
Expected date of implementation	October 2014 (SNR 8)	
Date submitted to RPC	9 April 2014	
RPC Opinion date and reference	29 May 2014	RPC14-DH-1229(2)
Overall Assessment	AMBER	
<p>RPC comments</p> <p>The IA will be fit for purpose, provided the Department addresses the points set out in this opinion.</p> <p>While the IA describes the likely costs and benefits associated with the measure, the Department should provide a fuller discussion of a number of the costs, along with some indication of their likely extent where possible. This would allow for a more meaningful consultation about these costs.</p> <p>The IA would also benefit from a fuller description of the EU Tobacco Products Directive within the body of the text. This would allow readers to understand better where the proposed measure goes beyond the Directive.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p><i>"Tobacco use remains one of the most significant challenges to public health across the United Kingdom and is the leading cause of premature death in the UK. The Government remains concerned about the take up of smoking by young people, the difficulty that adult smokers can have in quitting smoking and the consequences for the health of others from exposure to second hand smoke (SHS). Research evidence suggests that standardised packaging of tobacco products can reduce the appeal of tobacco products, increase the effectiveness of health warnings on tobacco packages and reduce the ability of tobacco packages to mislead consumers about the harmful effects of smoking. It could also address the contribution smoking makes to the sustaining of socioeconomic health inequalities."</i></p> <p>What are the policy objectives and the intended effects?</p> <p><i>"The objectives of standardised tobacco packaging would be to improve public health by discouraging young people from taking up smoking, supporting quitting among smokers who want to quit and helping people who have quit to avoid relapse back to smoking. Achieving these aims will improve the health of those who never start to</i></p>		

smoke and those who succeed in quitting smoking.”

What policy options have been considered, including any alternatives to regulation?

“Option 1: Require changes to legislation to bring the UK in line with the European Tobacco Products Directive in 2016. (This is essentially a “do nothing” option).

Option 2: Go beyond the European Tobacco Products Directive in 2016 and require standardised tobacco packaging of cigarettes and hand rolling tobacco (HRT). In line with the approach set out in the consultation document, this would involve the standardisation of pack colour and shape and the removal of all branding except brand name in a standardised typeface. Relevant legal markings such as health warnings and tax stamps would be retained as well as authentication markings to reduce trade in illegal tobacco products.

Option 3: Defer a decision pending collection of evidence on experience with plain packaging in Australia.

Option 2 is preferred in view of the possibility of very substantial health gains that it offers, deferral of which would be permanently detrimental to successive cohorts of young people and would-be quitters.”

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

The proposal is to standardise tobacco packaging as part of the aim of improving public health. The analysis within the IA provides a full assessment of the wider health benefits associated with the measure. These have been monetised as far as possible and included in the overall NPV.

In terms of the specific impact on business, the analysis indicates that this measure will affect business through transition costs resulting from the de-branding to standardisation of packaging; reduced profits from any resulting reduction in demand for the products; and, in the longer term, lower production costs associated with standardised packs.

The IA provides a commentary on those costs and benefits included in the business NPV. In order to ensure a more effective consultation, the Department should address the following areas prior to publication:

- *Description of standardised packaging:* The IA provides a description of the standardised packaging of tobacco, referring to the “*standardised shape, size and materials*” (paragraph 76). However, given the lack of breakdown of transition costs (see below), it is not clear that the costs take account of any disproportionate impact of a proposed size of packet on certain cigarette manufacturers. Tobacco manufacturers who manufacture large/small/slim cigarettes will need to adapt to the standard sized pack to meet their needs. The IA should provide a discussion and indicate the likely level of costs associated with this.

- *Impact on manufacturing:* The IA explains how, in meeting the requirements of the proposal, there may be “*initial resource costs to manufacturers within the wider tobacco industry to achieve compliance*”. In particular, the IA discusses how current manufacturers’ existing capital equipment may not be compatible with, or possibly inefficient, in producing standardised packaging (paragraph 92). The associated transition costs, (paragraphs 92 to 96), will need to be confirmed during consultation. Also, the IA does not discuss sufficiently the impact of the requirements on the manufacturing companies and their employees, and which impacts should be considered direct or indirect. The IA should provide a discussion of the impact on those companies involved in the packaging and branding of tobacco and clarify which costs are direct and which indirect.
- *Disposal costs:* Paragraph 99 indicates that there are potential costs associated with the disposal of duty paid and currently branded packs (on which duty has already been paid) in the transition to standardised packaging. No quantification of these costs has been provided at this stage. The IA should include indicative costs, perhaps based on scenario analysis of the potential phasing of the measure, in order to aid meaningful consultation.
- *Net Present Value:* The IA records a large positive NPV that reflects mainly the health benefits of the proposal. The IA categorises the costs and benefits and includes a brief explanation of the loss of brand value (paragraph 84). However, it is not clear whether any lost profits are accounted for within the NPV. The IA should be clearer on this point and include a summary table of the costs and benefits included in both the NPV and business NPV.
- *Options:* The Department explains that its preferred option will go beyond the EU Tobacco Products Directive, which constitutes the baseline for this assessment. The requirements of the Directive are provided at Annex E of the IA. The Department should provide details of the Directive within the body of the IA, to allow a comparison to be made between it and the options.
- *Transition Costs:* While the IA briefly explains the transition costs (paragraph 88), it should provide the composition of these costs, for clarity, in a summary table.

In addition to the above points, the Department should use the consultation to strengthen the following points before submission of a final stage IA:

- *Reduction in retail transaction costs:* The IA explains that, following research, the Department estimates a cost saving to retailers and customers of 1.5 second’s time per transaction. This results from a quicker response time in selecting and serving a standardised tobacco pack (paragraphs 102 to 109). The IA includes a discussion of empirical testing of the time taken to serve customers where tobacco is in standardised packaging. The discussion and the conclusions should be tested during consultation and the results reported in the final IA.
- *Packaging costs.* The IA contends that standardised packaging will be “*substantially cheaper to produce*” (paragraph 95). This should be examined during consultation and the results of the consultation included in the IA at final

stage to substantiate the claim.

- *Tobacco Products Directive*: The IA states that “*where manufacturers are expected to incur set up costs in order to reconfigure equipment in light of the Directive, the incremental cost of standardised packaging over and above this could be close to zero*” (paragraph 98). The IA should seek to gather evidence at consultation to confirm this statement.
- *Direct/indirect costs*. The IA discusses the loss of profit due to the reduced consumption of cigarettes as being indirect and therefore out of scope of OITO (paragraph 170). The IA would benefit at final stage from a clarification between direct and indirect costs.

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

The proposals increase the scope of regulation on business. Therefore a SaMBA is required.

The SaMBA is sufficient for this stage of policy development. The IA assesses how the proposals will affect micro and small businesses within the retail sector (page 48). The key impacts include a reduction in retail transaction costs and reduced profits from tobacco sales. The final stage SaMBA should provide additional analysis, based on the evidence gathered, and covering all potential small and micro businesses, in all potential sectors affected e.g. any small or micro businesses in the supply chain for the manufacture or branding of tobacco packaging.

We note that the Department will use the consultation to investigate potential means to mitigate any impacts on small and micro businesses (paragraph 198).

Comments on the robustness of the OITO assessment.

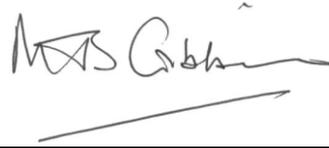
The baseline for calculations of benefits and costs from the proposal is the prior or simultaneous implementation of the European Tobacco Products Directive in 2016. A separate IA will need to be published to cover the changes under that Directive.

As noted above, the preferred option is to go beyond the European Tobacco Products Directive and require standardised tobacco packaging of cigarettes and hand rolling tobacco. By going beyond minimum EU requirements, the Department is gold-plating the measure.

In recognition of this, the IA says that this is a regulatory proposal which is in scope of OITO and would have a net benefit to business (an ‘IN’ with ‘Zero Net Cost’). The OITO position depends on which costs are classed as direct and which indirect. The Department’s assessment assumes that transitional costs to businesses from redesigning packaging are direct, as are the savings from reduced packaging in the long run, while costs from loss of profit and loss of brand are indirect. At final stage, the Department will need to provide further evidence to support its OITO assessment and its classification of costs as direct and indirect, in order for the RPC to validate the equivalent annual net cost to business.

In the OITO section of the IA (page 42), it would be helpful to summarise the quantified costs and benefits. In summary, the Department should strengthen evidence supporting the equivalent annual net cost to business, so that the RPC can validate the estimate at final stage.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons". The signature is written in a cursive style with a long horizontal stroke at the end. There is a small mark above the "i" in "Gibbons".

Michael Gibbons, Chairman