



EFA Submission on the Irish Public Health (Standardised Packaging of Tobacco) Bill 2013

The European Federation of Allergy and Airways Diseases Patients' Associations (EFA) is a non-profit network of allergy, asthma and chronic obstructive pulmonary diseases (COPD) patients organisations, representing 35 national associations in 22 countries and over 400,000 patients. EFA is dedicated to making Europe a place where people with allergies, asthma and COPD have the right to best quality of care and safe environment, live uncompromised lives and are actively involved in all decisions influencing their health.

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Executive Summary

EFA is representing people with allergy, asthma and COPD at the European level. Asthma and allergy are the most common chronic diseases in children and the leading cause of school absences, emergency department visits and hospitalisations.¹ 30 million people in Europe are affected by **asthma**, with six million of these people suffering from severe symptoms of the disease.² Ireland has one of the highest asthma rates in Europe and the world.³ When it comes to **allergy**, it is estimated that 1 in every 2 Europeans will suffer from an allergy by 2015. Among all the different types of allergies, respiratory ones represent the most common allergies and currently affect around 20-30% of the European population.⁴ **COPD** is a progressive disease that affects 44 million people in Europe and is expected by the World Health Organisation (WHO) to become the third leading cause of death by 2030.⁵

Tobacco is a proven and classified carcinogen: it kills almost 700,000 citizens every year in Europe and is a major source of nuisance and exacerbation for people with asthma, allergy and COPD. WHO estimates that tobacco smoke is the primary cause of **COPD** in developed countries.⁶ Lifelong smokers have a 50% probability of developing COPD during their lifetime; along the same line, there is also evidence that the risk of developing COPD falls by about half with smoking cessation.⁷ Research shows that smoking and exposure to second hand smoke is a major factor in provoking **allergic** responses by babies and young children.⁸ Smoking in **asthma** is associated with a higher degree of asthma severity, worsening of symptoms, increased hospital admissions, accelerated decline in lung function, limited short-term responses to medicines and poorer asthma control.⁹

EFA is very much concerned about tobacco use and marketing in Europe, and welcomes the Irish proposal for the Public Health (Standardised Packaging of Tobacco) Bill 2013 that aims at protecting people, and especially children, from tobacco-related diseases and deaths. We fully support the introduction of plain standardised packaging in tobacco products. Indeed, packaging is the main marketing channel tobacco producers use to attract and retain users and plain standardised packaging (harmonising the size and shape of tobacco packages, removing attractive colours and standardising the

¹ Erkka Valovirta, *EFA Book on Respiratory Allergies – Raise Awareness, Relieve the Burden*, 2011, available at: <http://www.efanet.org/documents/EFABookonRespiratoryAllergiesFINAL.pdf>.

² European Respiratory Society (ERS) in conjunction with the European Lung Foundation (ELF), *European Lung White Book*, November 2003.

³ ELF in conjunction with ERS, *Lung Health in Europe – Facts & Figures*, 2013, available at: http://www.europeanlung.org/en/assets/files/en/publications/lung_health_in_europe_facts_figures.pdf.

⁴ Erkka Valovirta, *EFA Book on Respiratory Allergies*, cit.

⁵ Mariadelaide Franchi, *EFA Book on COPD in Europe – Sharing and Caring*, 2009, available at: <http://www.efanet.org/documents/EFACOPDBook.pdf>.

⁶ WHO, *COPD factsheet*, November 2012, available at: <http://www.who.int/mediacentre/factsheets/fs315/en/>.

⁷ Laniado-Laborin L., *Smoking and Chronic Obstructive Pulmonary Disease (COPD). Parallel Epidemics of the 21st Century*, in *International Journal of Environmental Research and Public Health*, 2009.

⁸ Kulig M., Luck W., Lau S., Niggemann B., Bergmann R., Klettke U., Guggenmoos-Holzmann I., Wahn U., *Effect of pre- and post-natal tobacco smoke exposure on specific sensitisation to food and inhalant allergens during the first years of life*, in *Allergy*, March 1999. Halcken S., *Prevention of allergic disease in childhood: clinical and epidemiological aspects of primary and secondary prevention*, in *Pediatric Allergy Immunology*, June 2004.

⁹ Thomson N. C., Chaudhuri R., Livingston E., Asthma and cigarettes smoking, in *European Respiratory Journal*, November 2004. Fattahi F., Hylkema M. N., Melgert B. N., Timens W., Postma D. S., ten Hacken N.H., *Smoking and nonsmoking asthma: differences in clinical outcome and pathogenesis*, in *Expert Review of Respiratory Medicine*, February 2011. Polosa R., Thomson N. C., *Smoking and asthma: dangerous liaison*, in *European Respiratory Journal*, August 2012.

branding) is proven to reduce the appeal of tobacco to children and young people and to reinforce the health warning messages. Contrary to the tobacco industry claims, standardised packaging is compatible with EU and international law. It is easily implementable, does not cost any money to governments and works for public health.

EFA is fully supportive of the submission made by our Irish member, Asthma Society of Ireland. However, being an umbrella organisation of patients at the European level, we deemed it was necessary to make our own submission to present the more general EU view on this topic. Ireland's proposal may start a chain reaction throughout the EU and we seriously hope that this will happen to improve the health of European citizens in general and of people with allergy, asthma and COPD more in particular.

Submission

EFA wishes to submit the following comments to the Irish Public Health Bill 2013.

Head 1- Interpretation

EFA is in agreement.

Head 2- Regulations

EFA is in agreement.

Head 3- Purpose

Standardised packaging is legal and easily implementable. It does not cost any money to governments and works for public health. The industry arguments that plain packaging is contrary to intellectual property rights law and leads to illicit trade should be unmasked as false.

On the one hand, the use of a trademark is a privilege, not a right as explained in the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) article 20 and article 8(1) which specify that "members may adopt measures necessary to protect public health, provided that such measures are consistent with the provisions of this Agreement."¹⁰ Basically, the use of trademark is not prohibited (e.g.: companies can still use it on their websites and/or corporate papers, etc.), but limited (it cannot be on cigarettes packages) for reasons of public health (idea supported by the Australian High Court ruling in August 2012 and suggested by the WHO Framework Convention on Tobacco Control, FCTC, that is an international treaty ratified by all EU Member States and its provisions need to be respected). Indeed, in its Guidelines for the implementation of Article 11 of the FCTC, WHO recommends "[p]arties 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 size (plain packaging)".

On the other hand, plain packaging will not increase illicit trade as these packages will continue to have health warnings and security features. Member States that have introduced picture warnings have seen

¹⁰ Alemanno A., Bonadio E., *Do you mind my smoking? Plain packaging of cigarettes under the TRIPS agreement*, J. Marshall Rev. Intell. Prop. L., 450, spring 2011, available at: <http://jmripl.com/articles/Alemanno3.pdf>.

no increase in the illicit trade: in the United Kingdom (UK), since picture warnings were introduced in 2008 the illicit market share of cigarettes has steadily fallen from 14% to 9%.¹¹

Last, but certainly not least, a campaign on the plain packaging was run in the UK by Smoke-free Action Coalition and the results clearly showed that this decreases the attractiveness of smoking, especially among young people.¹² More recently, researchers from the University of Sydney and the Australian Cancer Institute have studied the number of calls to quitline in Australia over a period of nine years to see how the introduction of plain packaging affected these calls. The results are impressive as plain packaging was deemed to have triggered a 78% increase in weekly calls to quitline.¹³

Head 4- Application of the Provisions of this Act

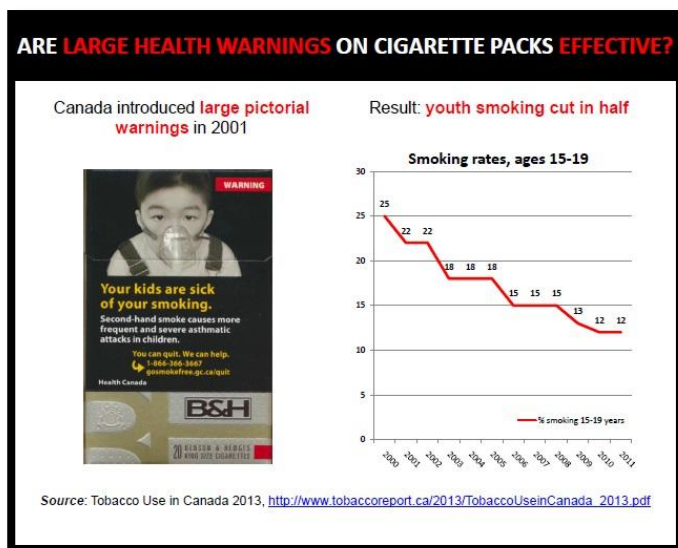
EFA agrees with the submission made by our Irish member, Asthma Society of Ireland.

Head 5- Physical Features for Retail Packaging of Cigarettes

EFA agrees with the submission made by our Irish member, Asthma Society of Ireland.

Head 6- Labelling Requirement for Retail Packaging of Cigarettes

EFA is in agreement with the text proposed that is in line with the provisions included in the Tobacco Products Directive as adopted by the Council of the European Union (final adoption still pending in the European Parliament).



Graphic warnings are more effective than text-only messages in reducing the attractiveness of tobacco products to children and young people, and increasing the size of these messages enhances the effectiveness of the warning. In Canada the smoking rate amongst 15-19 year-olds was 12% in 2011, half the rate of the same age group in 2000. In Uruguay, since the introduction of pictorial warnings in 2005, smoking among 15-17 year-olds has decreased by 8% annually.

Head 7- Requirements for Appearance of Cigarettes

EFA agrees with the submission made by our Irish member, Asthma Society of Ireland.

¹¹ HM Revenue and Customs (HMRC), *Measuring tax gaps 2012*, available at: <http://www.hmrc.gov.uk/statistics/tax-gaps/mtg-2012.pdf>.

¹² See the website of the Coalition: <http://www.smokefreeaction.org.uk/plain-packaging.html>.

¹³ Jane M Young, Ingrid Stacey, Timothy A Dobbins, Sally Dunlop, Anita L Dessaix and David C Currow, *Association between tobacco plain packaging and Quitline calls: a population-based, interrupted time-series analysis*, *Med J Aust* 2014; 200 (1): 29-32.

Head 8- Physical Features for the Retail Packaging of Roll-your-own tobacco

EFA agrees with the submission made by our Irish member, Asthma Society of Ireland.

Head 9- Labelling Requirements for the Retail Packaging of Roll-your-own tobacco

EFA agrees with the submission made by our Irish member, Asthma Society of Ireland.

Head 10- Requirements for the Retail Packaging for Tobacco products other than Cigarettes and Roll-you-own Tobacco

EFA agrees with the submission made by our Irish member, Asthma Society of Ireland.

Head 11- General Requirements

EFA agrees with the submission made by our Irish member, Asthma Society of Ireland.

Head 12- Authorised Officers

EFA is in agreement.

Head 13- Offences

EFA is in agreement.

Head 14- Fines and Penalties

EFA is in agreement.

Head 15- Trade Marks Act 1996

EFA is in agreement.

Head 16- Short Title and Commencement

EFA is in agreement.



This submission arises from the EFA 2014 Operating Grant, which has received funding from the European Union, in the framework of the Health Programme (2008-2013).

Disclaimer: The content of this submission is EFA's sole responsibility; it can in no way be taken to reflect the views of the European Commission and/or the Consumers, Health and Food Executive Agency (CHAFAEA) or any other body of the European Union. The European Commission and/or the Executive Agency do(es) not accept responsibility for any use that may be made of the information it contains.