



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

COMMITTEES

Health and Ageing Committee

Report

SPEECH

Monday, 22 August 2011

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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Questioner
Speaker Irons, Steve, MP

Source House
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Mr IRONS (Swan) (12:50): by leave—I rise to speak on the report on the Tobacco Plain Packaging Bill 2011 and the Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011. I also congratulate the chairman of the committee who has just made his statement on the report. The report makes two recommendations. The first is:

Recommendation 1

The Committee recommends that the House of Representatives pass the Tobacco Plain Packaging Bill 2011.

The purpose of the Tobacco Plain Packaging Bill 2011 is to improve health outcomes for Australians by reducing the use of and exposure to tobacco products by removing one of the last forms of tobacco advertising. As outlined in the explanatory memorandum, the bill will make it an offence to sell, supply, purchase, package or manufacture tobacco products or packaging for retail sale that are not compliant with plain packaging requirements. As the Tobacco Plain Packaging Bill 2011 includes restrictions on the use of trademarks on tobacco products and the retail packaging of those products, the Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011 was introduced on the same date to complement the main bill. In her second reading speech, the Minister for Health and Ageing explained:

This bill amends the Trade Marks Act to allow regulations to be made in relation to the operation of the Tobacco Plain Packaging Bill 2011. The objective of any such regulations would be to ensure that the practical operation of the Tobacco Plain Packaging Bill 2011 does not prevent businesses from registering new trademarks, or from protecting registered trademarks against infringement.

Recommendation 2 was that the House of Representatives pass the Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011. On 7 July 2011 the House of Representatives Selection Committee referred both bills to the House of Representatives Standing Committee on Health and Ageing for inquiry.

Prior to introducing tobacco plain-packaging legislation the Australian government committed to consult broadly. The consultation process was administered by the Department of Health and Ageing. During the consultation DoHA met with representatives of the tobacco industry on a number of occasions to discuss issues of concern. DoHA also met with a number of retail organisations, including the Council of Small Business Organisations of Australia, the Australian newsagents association, Master Grocers Australia, the Service Station Owners' Association, the Tobacco Station Group, the National Independent Retailers Association and the two major supermarket chains: Coles and Woolworths. There are many small businesses and business associations who felt that the consultation process was poor and that they did not have enough time or opportunity to present or submit to this inquiry or to DoHA. The outcome of the DoHA consultation was described as follows:

There was strong support for the Bill amongst the public health and non-government organisations ...

Some submissions opposing the Bill claimed a perceived inadequacy of evidence to justify the plain packaging measure; a potential for detrimental impact on the tobacco industry and retailers; and the potential for the Bill to be in breach of national trade mark and intellectual property rights as well as international law obligations.

Several submitters who did not support the introduction of plain packaging believed that there would be no health benefits at all. Some claimed that it would have unintended health consequences, leading to an increase in smoking or an increase in medical problems, due to the consumption of illegal and unregulated tobacco products. Some submitters also suggested that plain packaging would make it easier for tobacco products to be counterfeited and that increasing cigarette prices would be a more effective mechanism to reduce the smoking rate. It was also argued that plain packaging would force manufacturers to compete on price rather than brand, with the unintended consequence of reducing the price of tobacco products. The report also quotes those against the bills as saying:

Moreover, in promoting the plain-packaging proposal, the Consultation Paper fails to look at its impact on prices of tobacco products. Price is regarded as the single-most-important determinant of smoking behaviour, with higher prices leading to substantial reductions in smoking rates. By removing the only non-price factor that brands can use to inform customers and to compete, the only remaining form of competition will be price. Lower prices have long been shown to increase smoking rates. While Australia has significant taxes on tobacco, there are still substantial price differentials between branded and generic cigarettes in Australia's market. By removing trademarks and all other brand imagery and information from the packs, price competition is expected to intensify, which would likely increase tobacco consumption, especially by youth.

In sum, Australia's health justification for plain packaging is not supported by actual evidence and seems more likely to cause an increase in smoking rates, not a reduction.

The committee then went on to ask the representatives from DoHA whether the department was satisfied that sufficient evidence had been established to support plain packaging. It was informed by DoHA:

We absolutely have sufficient public health evidence to go forward with this legislation. This is as good a set of public health evidence as you get for preventative health measures.

The coalition support these bills going forward, but may not always agree with the process on the consultation that was taken during the committee inquiry as well. We would like to say that we do support this and that we will not oppose these bills.