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Submission to Panel on Health Services, Legislative Council of HKSAR

On “Legislative proposals to strengthen tobacco control”

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1) Background

Established for more than 20 years, the Pacific Cigar Company Ltd. is the exclusive distributor of all Cuban cigars in Hong Kong and Asia-Pacific. In Hong Kong, the company operates 12 specialized cigar stores and supplies to independent retailers and outlets all over the market.

2) Sales channels and types of customers

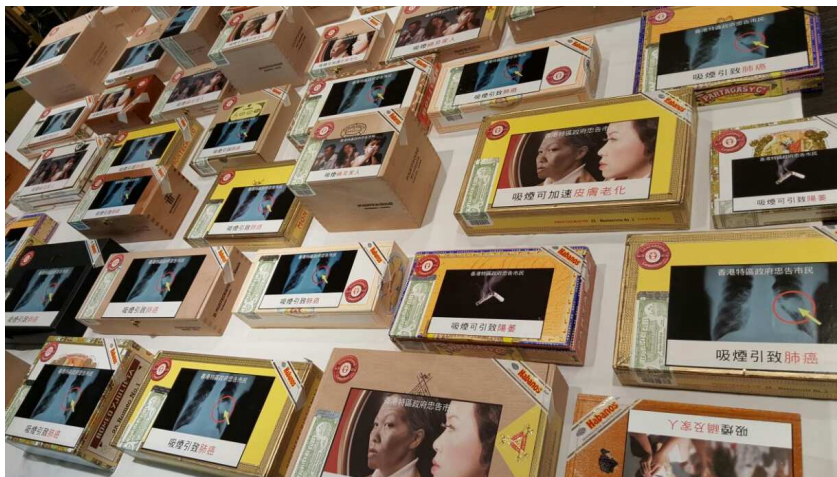
There are more than 500 types of cigars that we sell in Hong Kong with different brands, specifications, packaging and flavors. With the unique product features and the high demand of product knowledge, most of the customers prefer to buy their cigars in specialized cigar stores or professional wine stores with cigar counters. These sales channels occupy over 90% of our sales volume.

Due to the high price level of cigars, our key customer groups are more mature and have higher purchase power. Therefore, for cigar products, the main sales locations and main customer groups neither involve the young public, nor turn into impulse buying as easy as other general consumer goods.

3) Over 500 cigar items with original retail containers from manufacturers

Due to different sizes and specifications, storage requirements, as well as historical factors, each cigar item has its own unique retail packaging. Moreover, with the limited imported quantity for each item, distributor has to use the original manufactured retail container for each type of cigars. As such, in the market, there are more than several hundred types of retail containers for cigars in terms of sizes and dimensions.

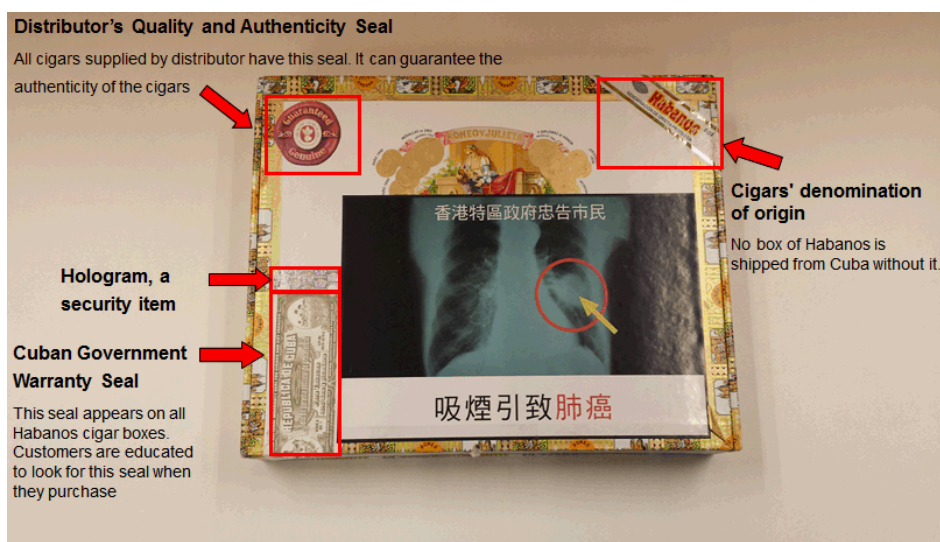
In view of the industry's difficulties, the current regulation on health warning also allows the using of stickers to apply the 50 % health warning on cigar retail containers.



4) Besides product information, manufacturers have applied different types of hi-tech authenticity seals on cigar boxes

Those who have knowledge on cigars would know that due to the high retail value of cigars, there are lots of counterfeit products throughout the international market. These counterfeit products keep imposing threats to the industry and consumers. Apart from some statistical figures of counterfeit cigars from certain markets, in the recognized cigar related books, magazines and discussion forums in different countries, how to distinguish and avoid buying counterfeit products are always the hottest topics for end users. Our company had also worked with the local and overseas authorities to fight against counterfeiting cigar activities. In order to protect the industry and consumers, manufacturers and sole distributors have made vast investment to establish anti-counterfeiting measures and focused on educating consumers to avoid the purchase of counterfeit cigar products.

More than one hundred years ago, manufacturers started to put warranty seals on cigar boxes. Over the years with continuous improvement, manufacturers also added various high-tech security elements and educate the consumers to identify all the seals before buying.



Cuban Government Warranty Seal



The Cuban Government Warranty Seal was first introduced in 1889 by the Royal Decree of the King of Spain. In 1912, the independent Cuban government authorized to use the new design. In 1931 and 1999, further modifications were made with additional security elements. In 2009, hologram with security technology was introduced.

Seal of the Protected Denomination of Origin (D.O.P) Habanos



Since 1994, all boxes have carried the Habanos seal as a mark of the cigars' denomination of origin.

Distributor's Quality and Authenticity Seal



In order to allow consumers to promptly identify the authentic products and avoid buying cigars with unknown sources, this seal is applied on all cigar boxes which are imported directly from Cuba and distributed through the sole distributor in Hong Kong.

For consumers, these seals are the only basic tools for them to promptly judge the authenticity of cigars in the sales channels. Moreover, if consumers have further concerns, they can provide the information on the retail containers to importer for further investigation.

5) Oversized health warning will completely cover the product information and all authenticity seals on box cover

As mentioned above, there are several hundred types of cigar packaging in terms of size and dimension. To achieve a better storage condition, most of the containers are still using the traditional wooden boxes, where the box covers are opened by lifting or sliding. The edges of the wooden box have already occupied part of the surface area. If the area of the health warning increases from 50% to 85%, all the product information and authenticity seals which are located on the box surface will be completely covered and the following situation will happen:



With the bigger size of individual stick, the retail containers of cigars in general are much bigger than other tobacco products. The current 50% health warning on cigar boxes are already very obvious and almost impossible to be missed by consumers. Moreover, according to the Guidelines of the World Health Organization “Framework Convention on Tobacco Control”, health warnings and messages on tobacco product packaging and labeling “should be 50% or more, but no less than 30%, of the principal display areas”. Therefore, we do not see the need for increasing the size of the current health warning for cigar products.

6) **Covering all the product information on box surface.**

Deprivation of consumers’ ability in distinguishing genuine and fake products.

Facilitating illegal counterfeiting activities throughout the market

As said before, there are several hundred types of cigars in the market. Professional sales outlets will have an extensive display of cigar assortment to satisfy consumers’ need. If the information on the box surface is completely covered, it will not only deprive the manufacturers’ right of showing their trademarks, but also make the consumers difficult to understand the specifications of products they are buying. This will impose a serious confusion between retailers and consumers in terms of communication during business transactions.

Currently the high-tech authenticity seals on box surface applied by manufacturers and distributors can effectively lower the chance of buying fake products by consumers. However, once the enlarged health warnings cover all the authenticity seals, just by printing large health warning stickers, counterfeit cigar traders can easily create confusion to consumers. Besides imposing a high risk to cigar consumers, it will also make Hong Kong into a big and easy market for counterfeit cigars.

7) **References on other countries’ experiences**

In view of the industry’s unique business mode and constraints of retail packaging, different countries or regions will consider the actual situation of cigar industry when they implement new policies.

From the example of Thailand, according to information, Government increased health warning size on tobacco products to 85% in 2013. For cigars, required health warning size is still 50%.

(source : <http://www.tobaccocontrolaws.org/legislation/country/thailand/pl-health-warnings>)

Moreover, according to information, Government of Canada increased health warning size on tobacco products to 75% in 2011 while the health warning on cigar product (above 1.4g) is following another specific requirement. Health warning has to be at least 20 cm² if the display surface is less than or equal to 149 cm², and at least 40 cm² if the display surface is greater than 149 cm².

(source: <http://www.tobaccocontrolaws.org/legislation/country/canada/pl-health-warnings>)

8) Conclusion

We understand that tobacco products have to be regulated and we also fully cooperate with implementation of tobacco control policy. However, we believe that in order to have an effective regulation and policy, consumers' right and difficulties of the industry must be taken into consideration, to avoid the unintended consequences of depriving the rights of consumers and industry, and at the same time, facilitating illegal behaviors.

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