



Tobacco Association of Hong Kong  
香港煙草業聯會

LC Paper No. CB(2)1511/16-17(01)

Chairman to Subcommittee on  
Smoking (Public Health) (Notices) (Amendment) Order 2017  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

25<sup>th</sup> May 2017

Dear Chairman,

Thank you for the opportunity to present our views at the deputation held on 23 May 2017 at the Subcommittee on Smoking (Public Health) (Notices)(Amendment) Order 2017 ("the Subcommittee"). For your reference, we have summarized the following four key issues, among many other things, that we believe the government had failed to address satisfactorily during the said deputation.

1. **COSH survey:** the government has cited a 2015 survey conducted by the Hong Kong Council on Smoking and Health ("COSH") and has repeatedly quoted figures from a recent survey as the support for the 85% health warning requirement. However, the said 2015 survey was based on the 75% health warning requirement while the said recent survey has never been released to the public such that the survey's methodology has never been scrutinized by the public. Further, the said surveys are merely intermediary indicators (such as subjective thoughts) to temporary smoking behaviors. Such indicators are speculative in nature. Similar speculative data were rejected by the US Court of Appeal against the FDA's 50% GHW regulation.<sup>1</sup> The tobacco industry considers that it is unfair and inappropriate to use the said surveys as the basis for the Amendment Order.
2. **Adaptation period:** although the government has previously committed for a 12 months' adaptation period, the Smoking (Public Health) (Notices)(Amendment) Order 2017 ("the Amendment Order") only provides a 6 months' adaptation period after the effective date. Given the Amendment Order is still going through the amendment process at the Subcommittee, the tobacco industry cannot commence the production process for the 85% health warning requirement until the amendment process is completed. As such, the tobacco industry has not in fact

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<sup>1</sup> *R.J.Reynolds Tobacco Company, et al., Appellees v FDA, et al., Appellants*, No. 11-5332, Appeals from the United States District Court for the District of Columbia (No. 1:11-cv-01482)



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been given a true and full 12 months' adaptation period as previously committed by the government.

3. **Health warning designs:** the tobacco industry raised legitimate concerns about the use of the published health warning designs on certain tobacco products. In particular, only vertical forms of the health warning designs are provided for all retail containers of tobacco products (except those containing one cigar). Such vertical forms of the health warning designs cannot be placed on some retail containers of tobacco products without distorting their forms. The government has largely ignored these concerns and failed to give necessary written guidance and technical artwork in AI format to the tobacco industry. This is not justifiable given that the lack of full and complete AI files for all artworks may further hinder our manufacturing process.
  
4. **Soft packs:** only large overseas manufacturers have the technical capacity to manufacture transparent sealing labels used on soft packs. The government's insistence of the application of the Amendment Order (both in terms of the technicality and timing) by referring to the transparent label solution is in effect indirectly imposing the larger overseas manufacturers' standard to small local manufacturers which do not have the same capacity to comply. The local manufacturers will be forced to shut down the soft pack line of business which in turn may result in massive layoff of local workers.

We would appreciate it if you could kindly bring these issues to the attention of the government, and request proper responses and solutions from government to the above.

Yours sincerely



Chairperson  
Tobacco Association of Hong Kong Limited