

Tobacco industry

Stricter cigarette packaging rules come into force in UK

Cigarettes to be sold in standardised green packaging bearing graphic warnings of dangers of smoking from this weekend



Under the EU directive, all tobacco packaging will be uniformly green with large images showing the harmful effects of smoking. Photograph: ASH/PA

Press Association

Cigarettes must be sold in standardised green packaging bearing graphic warnings of the dangers of smoking from this weekend, as rules designed to prevent young people taking up the habit come into full effect in the UK.

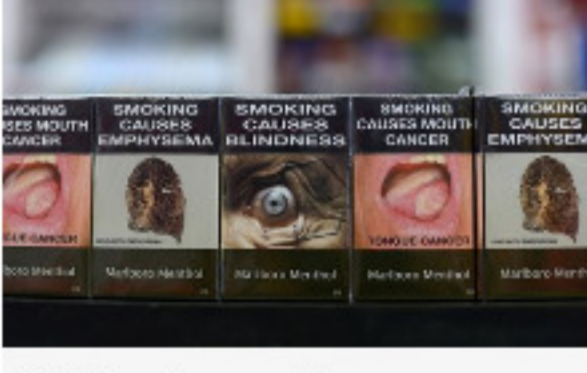
All packs must contain at least 20 cigarettes to make sure they are big enough for health warnings to cover 65% of the front and back, with the brand name restricted to a standard size, font and colour.

The EU tobacco products directive has allowed the UK to go further with its regulations to require all tobacco packaging to be uniformly green with large images showing the harmful effects of smoking.

Packaging of hand-rolled tobacco must also be in the same colour and pouches must contain a minimum of 30g of tobacco.

The directive extends to e-cigarettes, restricting tank sizes to no more than 2ml and the nicotine strength of liquids to no more than 20mg/ml, and there must be a 30% health warning on the front and back reading: "This product contains nicotine which is a highly addictive substance."

The new rules also include a ban on menthol cigarettes from 2020 and promotional statements such as "this product is free of additives" or "is less harmful than other brands".



Plain cigarette packaging could drive 300,000 Britons to quit smoking

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Standardised packaging regulations, which is a UK initiative, come into full effect on Sunday, while the rules governing minimum pack sizes and e-cigarettes will be in force from Saturday.

Companies have had 12 months to sell old stock and fully implement the changes under the directive, which was adopted in 2014 but held up by a series of court cases testing its legality.

The tobacco industry challenged the tobacco products directive through the European court of justice (ECJ) and standardised packaging regulations through the UK courts.

Last May, the ECJ ruled that the directive was lawful, and days later the industry's legal challenge to standardised packaging was defeated in the UK courts.

Last month, the UK supreme court refused the tobacco industry leave to appeal the decision any further.



How tobacco firms flout UK law on plain packaging

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The new rules are an attempt to cut the number of smokers across the EU by 2.4 million. An estimated 700,000 premature deaths are caused each year by smoking, and cancer charities are backing the measures.

The UK was only the second country in the world to pass legislation on standardised packaging after Australia in 2012, with many others following on, including France, Ireland, Hungary and Norway.

The chief executive of the Action on Smoking and Health (Ash) charity, Deborah Arnott, said: "Getting rid of glitzy, heavily branded tobacco packs is the latest in a long line of achievements by the UK, which is a global leader in tobacco control. We now have among the fastest declining smoking rates in the world thanks to decades of sound policy, but smoking rates among the poorest and most disadvantaged remain high.

"If this is to change, then a priority for the next government must be to publish a new tobacco control plan with tough new targets, focused on tackling health inequalities."

Smokers' group Forest said the regulations would make no difference to public health. The organisation's director, Simon Clark, said: "The new regulations treat adults like naughty children. They infantilise consumers by attacking freedom of choice and personal responsibility.

"The new regulations are a disgraceful attempt to denormalise both the product and legitimate consumers. There's no evidence they will have the slightest impact on public health."

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專訪華裔控煙學者方德智 籲擴煙包警示

控煙更有力 港可成模範



設計圖片

告的力度須與產品的危害程度相匹配，「沒有一種消費產品會令一半的經常使用者死亡……不是出於意外，而是有意識地長期吸煙」。

麥龍詩迪：擬煙盒印戒煙熱線

麥龍詩迪補充指，除了增加圖像面積之外，政府還計劃將警示圖像的式樣從6個增至12個，以及在盒上印有戒煙求助熱線。加拿大、荷蘭和新西蘭的經驗顯示，印有求助熱線後，當局接獲煙民求助的數字大增。

由此可見，擴大警告圖像早已有海外成功事例所支持，也是國際社會通行的做法。方德智舉例指，泰國、印度和巴基斯坦的圖像覆蓋率都是85%，尼泊爾更已通過法案實施90%覆蓋率。

煙草業提訴 圖拖延控煙

然而，煙草業強烈反對擴大警告圖像。麥龍詩迪透露，煙草業以往的慣常做法是針對主張控煙的人，她自己就曾遭受死亡恐嚇，現在業界改變策略，訴諸法律手段直接挑戰政府，「這在全球每個嘗試控煙的地區都有發生，但(煙草業)幾乎全都失敗收場」。

既然成事機會不高，為何業界還是不斷採取行動？方德智說，這是為了令政府窮於應付官司，從而拖延推行新控煙措施，並藉此威懾實力較弱的政府，不敢與財雄勢大的煙草業作對，形成「監管的寒蟬效應」(regulatory chilling effect)。所以若香港在擴大煙包警示圖像一役失利，「受影響的遠不止於香港及其七百萬人口」，其他地區可能更加不敢嘗試。

無論如何，方德智讚揚香港政府嘗試修例擴大煙盒圖像，已是走出正確、強而有力的一步，而且是基於大量證據支撐和外國的成功經驗，相信有助改善向煙民和潛在煙民(尤其是青少年)傳遞控煙訊息。

方德智研究控煙政策多年，為世界衛生組織和多地政府提供諮詢。今次他與「亞洲反吸煙諮詢所」總監麥龍詩迪一起受訪。方德智一開始就向記者指出，吸煙是「頭號可預防的死亡原因」，流行病學研究顯示，一半至三分之二的煙民可能死於吸煙相關疾病。目前在香港15歲以上的吸煙者有70萬人，與吸煙有關的死亡數字則是每年7,000宗，他估計世界各地會有1億人因為吸煙導致的疾病而死亡。

政策成控煙最關鍵手段

因此，學界對於減少煙草產品使用的研究更形重要，當中最關鍵的控煙手段，正是透過政府實施政策。方德智解釋，公共政策影響一整個國家或地區的人口，可充分發揮效用，例如在煙盒印有警示圖像或室內禁煙措施，都可影響所有煙民的行為。這也是世衛2005年生效的《煙草控制框架公約》(FCTC)的着重點，中國是簽約國之一，因此條約在香港和澳門地區也適用，公約裡包含各項控煙政策的條款。

方德智與同僚創立「國際煙草控制政策評估計劃」(ITC Project)，這是全球首個涉及控煙政策的「世代研究」(cohort study)。該計劃從2002年開始，長期追蹤政策如何改變煙民行為，讓政府得知各項政策的成效。

警告圖像效果勝文字

方德智指出，他們的研究證實，煙盒警告圖像的效果好過警告文字。加拿大於2001年推出煙盒警告圖像，是全球首例，當時煙盒兩面都是各佔一半面積，即50%覆蓋率，到了2012年才修訂至75%。方德智稱，當煙民多年來看着同一款警告圖像，會失去警示效用，FCTC的指引是每兩至三年修訂一次。加拿大修訂後，煙民對警告的注意程度有所回升。

香港在2007年引入煙盒警告圖像，也是兩面各佔50%。在當時，還有11個國家或地區有同樣警示，如今十年過去，它們都已作出修訂擴大覆蓋率，只有香港未曾修訂。方德智慨嘆香港在這方面已是落後於人，政府有責任作出警告，而且警

全球各地政府一直致力於推行更有效的控煙政策和措施，香港也不例外，政府計劃修例擴大煙包裝上的健康忠告圖像覆蓋率，由目前50%增至85%。近日訪港的加拿大華裔控煙學者方德智(Geoffrey T. Fong)接受本報專訪時表示，警告圖像愈大、愈能宣揚吸煙的危害，而香港可在全球控煙事業上，擔任領導者和模範者的角色。

香港文匯報記者 李鍾洲



第一、二排分別是英國及澳洲的煙包警告圖像。第四排是香港現今煙包警告圖案的大小，第三排是計劃擴大的圖像。香港文匯報記者李鍾洲攝

方德智

世衛控煙公約：政府無須受業界左右

世衛《煙草控制框架公約》(FCTC)於2003年通過，兩年後生效，共有180個簽署成員，是聯合國歷史上迅速獲最廣泛接受的條約之一，旨在應對煙草流行的全球化，重申所有人有權享受最高的健康標準，是促進公眾健康方面的里程碑，為國際衛生合作提供了新的法律層面。

據FCTC文件第5.3條明確指出，「煙草業的利益與公共衛生政策之間存在根本和無法和解的衝突」，因此各締約方制訂和實施煙草控制方面的公共衛生政策時，應根據法律採取行動，防止這些政策受煙草業和其他既得利益者的影響。

業界施壓「令人覺得受威脅」

方德智表示，這意味政府制訂控煙政策時，不應諮詢煙草商的意見。他補充道，FCTC第5.3條並非不許煙草商表達意見，「它們有權發聲，就像普羅大眾一樣」，但政府無須與它們坐在一起商議政策，受它們左右。

麥龍詩迪表示，對於擴大煙盒警告圖像，業界屢屢指責政府諮詢不足，她強調，政府在過去兩年已做了充足的諮詢工作，況且立法會容許煙草商代表出席會議，已是作出太大的讓步。她引述一名立法會資深議員透露，煙草業在立法會游說和施壓反對政府修例，其猛烈程度是該議員前所未見，「令人覺得受威脅」，也令支持控煙的人士不敢發聲。麥龍詩迪指這極不尋常，畢竟政府不是要推出新法案，而只是修訂現有措施，卻招致如此惡鬥，她也大為驚訝。

「尖叫法則」揭政策成敗

要衡量一項政策是否有效，控煙界有一條不太為外人熟知的「尖叫法則」(scream test)，所指的是煙草商會判斷哪些是對它們影響最大的控煙政策，並提出猛烈反對，即「尖叫」得最厲害；相反若業界不作聲、甚至還支持，就意味該政策沒作用。

舉例指，當政府禁止向18歲以下人士出售香煙，煙草業沒有反對，它們深知這措施成效有限，畢竟青少年可從長輩身上獲取香煙。又例如學校推行反吸煙的衛生教育，煙草業也不屑一顧。相反，會引起煙草業「尖叫」的包括加煙

稅、室內禁煙區和煙盒警告圖像，證明這些舉措可有效降低煙草使用量，因此不得不極力抗議。

麥龍詩迪表示，煙草業往往以職位流失等經濟理由反對控煙，但她指出這與事實剛好相反。以香港的食肆為例，研究顯示在室內禁煙後，政府從飲食業所得的稅收在兩年內下跌反升32%。加州大學學者李濱對內地雲南省458個農戶的研究亦指出，從種植煙草改為其他作物的四年後，農戶收入增加21%至120%，可見禁煙不僅減少吸煙帶來的經濟和生產力損失，還有效增加政府和平民的收入。

助年輕人抗煙 加稅最有效

方德智表示，相比學校教育和禁售香煙，提高煙稅直接增加煙草價格，最能夠解決年輕人吸煙問題，令他們難以負擔昂貴的煙草產品費用。

澳洲每年加12.5%

現時有六個國家制訂了控煙「終局計劃」(end-game plan)，希望在二十年內將吸煙率大幅降至5%，例如澳洲每年增加煙稅12.5%。法國在二、三十年前，也曾經大幅提高煙稅，效果在加稅七年後逐漸顯現，包括患癌率下降。

與擴大煙盒警告圖像一樣，加煙稅也面臨煙草業的大力阻撓，業界利用跨國游說集團施壓。麥龍詩迪表示，總部位於華盛頓的「國際稅務和投資中心」(ITIC)極力反對各地政府加煙稅，聲稱這會增加走私香煙，但麥龍詩迪指這說法完全失實，加煙稅和私煙問題並無必然關係。她表示ITIC雖號稱獨立、非牟利研究組織，但背後其實有煙草業提供資金，部分政府與ITIC談判時，根本是蒙在鼓裡，不知道對方是煙草商的傳聲筒。她形容ITIC勢力龐大，招攬一些已卸任的政府財長和貿易部長加入，「甚至曾在英國上議院舉行會議」。



法國也曾大幅提高煙稅。圖為煙民反對警示圖像加大。網上圖片



麥龍詩迪指加煙稅和私煙問題並無必然關係。網上圖片

菲公共場所全禁煙 違者囚4個月

菲律賓衛生部長烏維亞爾前日證實，總統杜特爾特已簽署行政命令，在全國公共場所禁煙，違者將被處以最高4個月監禁及5,000披索(約780港元)罰款，禁令將在登報60天後生效，衛生部已開始擬訂執行規則。

行政命令指出，凡是向公眾開放或集體使用的場地，均屬禁煙範圍，並適用於飛機、輪船、火車、巴士、的士等各類公共交通工具。部分公共場所內可設置吸煙區，但須距離出入口10米以外，並安裝通風設備，吸煙區面積不可超過10平方米。

菲衛生部前年統計顯示，該國約有1,590萬名煙民，成年男性吸煙比例超過40%。杜特爾特擔任菲南達沃市市長時，曾推行嚴格禁煙法令，就任總統後已多次表示將在全國實施禁煙。

赴美加展研究之路 父母來自北京

方德智父母來自北京，1948年至1949年遷往美國，他於俄亥俄州長大，10歲時舉家移居三藩市灣區。他在斯坦福大學畢業後，於密歇根攻讀心理學碩士，1988年赴加拿大滑鐵盧大學任教至今，現為該校心理學教授，以及公共健康和衛生系統學系教授。

方德智在2000年左右對控煙政策產生興趣，後來，滑鐵盧大學一名同事告訴方德智，加拿大正考慮推出煙盒警告圖像，促使他投入這方面的探索。他結合心理學理論研究方式和傳統流行病學調查，評估控煙政策對國家或地區整體人口的影響。他亦研究傳媒對吸煙的描述如何影響公眾對吸煙的觀感，以及煙草產品對空氣造成的污染。

Federal Appeals Court: After 11 Years, There's No More Reason For Big Tobacco To Delay Warning Ads

IMAGE COURTESY OF MENDHAK

Updated: May 9, 2017
5:10 pm EDT

By Chris Morran
[@themorrancave](#)

THE GHOST OF 2006
CIGARETTES
TOBACCO LAWSUITS

It's been more than a decade since a federal court ruled against the tobacco industry and ordered the nation's largest cigarette producers to produce a new series of warning ads. Those warnings have yet to happen, as Big Tobacco has repeatedly appealed just about every aspect of the ruling. Today, one federal appeals panel handed the industry some very minor concessions while basically telling the companies to quit it already with all the legal butt-dragging.

For those coming to the story late, here's a quick rundown (or as quick as one can be about a lawsuit filed in the previous century): In 1999, the Justice Department accused the tobacco industry of violating the Racketeer Influenced and Corrupt Organization [RICO] Act by conspiring to deny the health hazards of smoking.

A federal court ruled finally sided with the DOJ in 2006. As part of that ruling, the industry defendants were ordered to produce "corrective statements" that would be used in national TV, radio, and print ads warning people about the dangers of their products.

These ads were to hit on five particular points:

- 1: The adverse health effects of smoking;
- 2: The addictiveness of smoking and nicotine;
- 3: The lack of any significant health benefit from smoking "low tar" or "light" cigarettes;
- 4: The manufacturers' manipulation of cigarette design to ensure optimum nicotine delivery;
- 5: The dangers of exposure to secondhand smoke.

Big Tobacco has appealed this matter at least a half-dozen times, arguing that it violates their First Amendment rights, that the wording of the proposed statements was not compliant with RICO, and so on. Confusing matters, some of the original defendants sold their business to competitors or other companies who were not part of the DOJ lawsuit.

This latest appeal was filed in response to a [2016 ruling](#), in which the judge agreed to shorten some of the required wording of the warnings, but did not agree with all of the changes the industry demanded in its 40-page brief on the matter.

And so the dispute went, once again, to the Court of Appeals for the D.C. Circuit.

This time, the tobacco defendants complained that the preamble — the few introductory words that are part of each of the five statements — is *still* outside the scope of the RICO matter and that some of the defendants' First Amendment rights are being violated.

The latest version of the preamble, as proposed by the 2016 District Court ruling, read:

"A Federal Court has ordered [Defendants] to make this statement about [the topic of the statement]. Here is the truth..."

The RICO Act [allows courts to order remedies](#) that "prevent and restrain" future violations, but the tobacco companies say these statements are just continued lashings for previous bad conduct. The tobacco companies contend that both the part about the court order and the "Here is the truth" line have backward-looking implications.

In a ruling issued today [\[PDF\]](#), the D.C. Circuit agreed that there may be something to that argument when you consider the two items together. To resolve the matter, the appeals panel simply removed the "Here is the truth"

The TL;DR Version

- As part of a 2006 ruling against the tobacco industry, cigarette companies were ordered to produce a series of warning ads on five topics.
- The warnings have yet to materialize, as the industry has filed at least six appeals challenging these "corrective statements."
- Today, a federal appeals panel granted some minor tweaks to the wording of these warnings but again shot down the industry's claims that they violate Big Tobacco's First Amendment rights.
- The court said it now sees no reason for further delays on implementing these warnings.

CONSUMERIST

Federal Appeals Court: After 11 Years, There's No More Reason For Big Tobacco To Delay Warning Ads

The D.C. Circuit questioned why the defendants were bringing up the language about the court order now, when in the past they not only didn't challenge it — some defendants specifically requested that the corrective statements included this attribution.

The appellate judges also once again shot down the defendants' First Amendment argument, noting that the corrective statements are reasonably related to the government's interest in preventing deception about smoking, and are not burdensome to the defendants.

This appeal also challenged two specific statements: The one about cigarettes as a nicotine-delivery system, and the one about "low tar" or "light" cigarettes. The D.C. Circuit shut down any hope of changes to the former, noting that the defendants had previously waived their right to challenge that statement.

However, the appeals panel did allow for some tweaking to the other statement. As it currently stands, the warning is about "selling and advertising low tar and light cigarettes as less harmful than regular cigarettes." The D.C. Circuit agreed with the defendants that this is backward-looking, but rather than get rid of the warning, the panel said it should be reworded so that it's about "low tar and light cigarettes being as harmful as regular cigarettes."

With these matters seemingly put to bed, the appeals court concludes by asking everyone to please just get this done already.

"[W]e see no reason why extensive proceedings will be required in the district court," writes the panel. "With the minor revisions mandated in this opinion, the district court can simply issue an order requiring the corrected statements remedy to go forward."

The question now is whether the tobacco industry will finally stop fighting these warnings and issue the court-ordered warnings, or if it will continue to find minor quibbles with each court decision, allowing it to delay this matter even longer.

Originally published April 25, 2017 By Chris Morran [@themorrancave](#)

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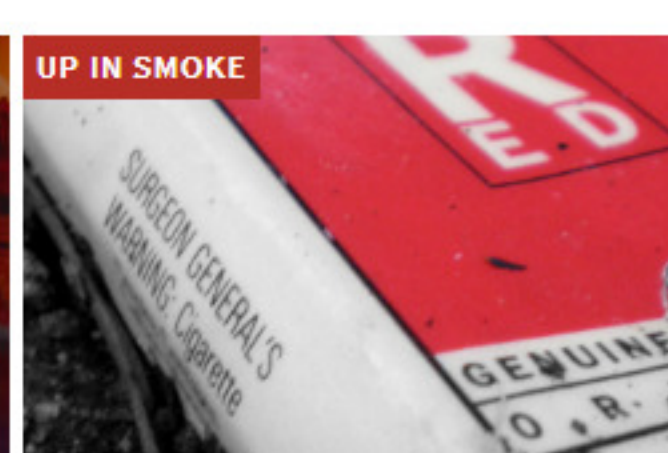
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Big Tobacco is losing the fight to stop plain packaging of cigarettes

Dr Enrico Bonadio, a Senior Lecturer in the City Law School, says the tobacco industry's bid to avoid plain packaging by relying on legal arguments around trade and intellectual property rights, is being systematically dismissed by courts around the world.

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By Dr Enrico Bonadio

You may already have seen the tobacco packs currently sold in the UK: a dark, murky green colour with large graphic health-warning images and scary messages aimed at informing current and potential smokers about the devastating consequences of tobacco consumption. They have no colourful logos, with the brand name just displayed in small characters in a standard font.

These packs are now required by new regulations which entered into force in May 2016. There has been a one-year transitional period for the sell-through of old stock – and from May 20 2017 all tobacco products on sale in the UK must comply with the new rules.

The legislative move has been recommended to all countries by the World Health Organisation to reduce the attractiveness of smoking and eventually reduce consumption. Australia was the first country to introduce such strict packaging requirements in December 2012. France and, of course, the UK have since followed suit.

It follows significant research that shows these new standardised cigarette packs are much less appealing to consumers – and young people especially.



The industry's legal defeats

No wonder tobacco companies have challenged the measure in the courts. They have argued that it is useless, too harsh – and is an infringement of their fundamental and intellectual property rights, especially trademarks. Yet, their claims are based on weak arguments and have been rejected by both the High Court of England and Wales and the Court of Appeal.

The tobacco industry has faced numerous courtroom defeats of late. Last year Uruguay won a landmark case against the Swiss giant Philip Morris International. The company had sued the Latin American state after it introduced two measures affecting tobacco packaging and trademarks. These were mandatory graphic health warnings covering 80% of cigarette packets (a measure very close to plain packaging) and the obligation for tobacco companies to adopt a single presentation for their brands, dropping for example the "gold" and "blue" descriptors, that could lead smokers to believe one variant was safer than another.



The fact that the courts sided with Uruguay would have been encouraging to other countries aiming to introduce controls on tobacco packaging. And even greater encouragement came recently from a World Trade Organisation ruling which deemed that the plain packaging requirements introduced by Australia as compliant with international trade and intellectual property rules – and are therefore a legitimate public health measure.

The decision has not been officially announced, but a confidential draft of the interim ruling was leaked to the media and the final decision is expected later this year. The Australian measure had been challenged at the WTO tribunal by Cuba, Dominican Republic, Indonesia and Honduras, countries whose economies strongly rely on the tobacco industry.

A domino effect

This is a blow to the industry. The short-term consequences of the WTO ruling – Imperial Tobacco's shares fell more than 2% after the decision was leaked – reflects the longer-term danger that this ruling poses. It will likely convince other states to introduce plain packaging legislation without fear of violating international trade and intellectual property laws. It basically gives them a green light by removing the regulatory chilling effect that such legal action has produced on countries that wanted to follow Australia's example.

After all, more and more countries seem interested in adopting standardised packaging. As well as France and the UK, Ireland and Norway will introduce packaging restrictions later in 2017, and Hungary in 2018. Many other states are debating similar measures, including New Zealand, Canada, Belgium, Slovenia, Belgium, Singapore and Thailand.

So, a legislative trend has started which aims to restrict the ability of tobacco manufacturers to make their products appealing to consumers by using eye-catching words, logos or ornamental features on the pack. And attempts by Big Tobacco to stop it by relying on legal arguments around trade and intellectual property rights are being systematically dismissed by courts around the world.

Ultimately, the industry needs to accept the fact that its ability to use fancy brands, especially on packaging, may be reduced by governments for public health reasons. Also that a company's property rights are not absolute or untouchable. Not only does it not have enough legal basis – as has now been confirmed by several courts and tribunals – but it also disregards legitimate policies adopted by democratically elected governments.



Definition World Health Organisation The World Health Organization (WHO) is a specialised agency of the United Nations that is concerned with international public health. It was established on 7 April 1948, headquartered in Geneva, Switzerland. The WHO is a member of the United Nations Development Group. Its predecessor, the Health Organization, was an agency of the League of Nations.

Tags Dr Enrico Bonadio, Plain packaging cigarettes, City Law School, Big Tobacco Join the conversation #DrEnricoBonadio, #Plainpackagingcigarettes, #CityLawSchool, #BigTobacco Share this article

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