

Philip Morris sues Australia over plain packaging

November 21 2011, by Madeleine Coorey

Global tobacco giant Philip Morris said Monday it was suing the Australian government over a new law requiring all cigarettes to be sold in plain packages.

"We are left with no option," Philip Morris Asia (PMA) spokesperson Anne Edwards said in a statement received by AFP.

"The government has passed this legislation despite being unable to demonstrate that it will be effective at reducing smoking and has ignored the widespread concerns raised in Australia and internationally regarding the serious legal issues associated with plain packaging."

Under the ground-breaking law, all [tobacco products](#) sold in Australia will need to be in plain packaging from 1 December 2012. Cigarettes will be sold in drab, olive-brown packets with large, graphic [health warnings](#).

The government hailed the passage of the law Monday as "one of the most momentous public health measures in Australia's history" and called on the big [tobacco](#) companies to accept the will of parliament.

Hong Kong-based PMA said it was seeking to suspend the law and wanted substantial compensation for the loss of the company's trademarks and investments in Australia under a bilateral investment treaty with Hong Kong.

The company expects damages to amount to billions of dollars and that the legal process will take two to three years.

"We are confident that our legal arguments are very strong and that we will ultimately win this case," Edwards said.

PMA's Australian affiliate Philip Morris Limited (PML) also intends to pursue claims under domestic law before the High Court of Australia.

The proposal to remove all logos and to print company names in the same font has angered tobacco firms, who say it will cut profits and see fake products flood the market because plain packaging is easier to reproduce.

Another huge tobacco company, British American Tobacco Australia, said earlier this month it would launch a challenge in the High Court as soon as the laws were granted royal assent.

It will argue it is unconstitutional for the government to remove its trademarks and other intellectual property without compensation.

Health Minister Nicola Roxon has said the government is prepared for legal challenges to the law, which is designed to reduce smoking rates in the country where Canberra says 15,000 people die from smoking-related illness each year.

"Plain packaging means that the glamour is gone from smoking and cigarettes are now exposed for what they are: killer products that destroy thousands of Australian families," she said after the passage of the law.

"We know that packaging remains one of the last powerful marketing tools for [tobacco companies](#) to recruit new smokers to their deadly products.

"In the future, cigarette packets will serve only as a stark reminder of the devastating health effects of smoking."

Roxon said [tobacco firms](#) were fighting the reform because they knew plain packaging would work to cut smoking rates.

"The World Health Organization has recognised Australia's lead in tobacco control, singling out our plain packaging legislation as an example for the world to follow," she said.

Earlier this month a judge in the United States blocked a government attempt to place graphic warning labels on cigarette packs, saying big tobacco was likely to succeed in arguing it was a violation of free speech.

The full-colour warning labels, including diseased lungs and a cancerous mouth lesion, would serve as "mini billboards" for the US government's "obvious anti-smoking agenda", said the ruling by US District Judge Richard Leon.

The number of smokers in Australia has been declining steadily for years, but Canberra says tobacco use costs the country more than Aus\$30 billion (US\$30 billion) a year in healthcare and lost productivity.

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