

Australia takes on big tobacco firms in court

April 17 2012, by Madeleine Coorey

Australia said it was confident of seeing off a court challenge Tuesday by big tobacco firms over plain-packaging for cigarettes, in a test case being watched by governments around the world.

Cigarette companies, led by British American Tobacco (BAT), are contesting the new law in a three-day hearing, claiming it infringes their [intellectual property rights](#) by banning brands and trademarks from packets.

Attorney-General Nicola Roxon said the government believed it would successfully defend the legislation, which will see all cigarettes sold in the same drab olive-green packets from December 1.

"We went into this policy and introduction of the legislation with our eyes open, knowing that [tobacco companies](#) have a history of litigation," Roxon told reporters outside the High Court in Canberra.

"And we are very confident that we have taken careful advice, that we have a strong case and that will be argued by the Solicitor-General today and in the coming days in this court."

Roxon said the packets, which will be stripped of logos and include graphic [health warnings](#) featuring diseased body parts and sick babies, were an attempt to reduce the number of people smoking.

Australia is the first country to mandate plain-packaging, but the groundbreaking move is being closely watched by other countries considering

similar approaches, including Britain, Canada and New Zealand.

"Our government is determined to take this action because we think it can save lives," Roxon said.

"And we think it can have a positive impact on the budget by reducing some of the expenditure that is spent each and every year in treating tobacco related illness."

BAT, [Philip Morris](#), Imperial Tobacco Australia and Japan Tobacco International are arguing the government has passed a law that acquires tobacco firms' valuable brands and intellectual property.

Japan Tobacco International lawyers told the court the government was acquiring the space on [cigarette packets](#) for warnings against smoking, but if it chose it could use this space for other messages such as 'Pay your taxes'.

"As a legal company selling a legal product we have continually said we will defend our property on behalf of our shareholders as any company would," BAT spokesman Scott McIntyre said ahead of the hearing.

But Roxon said the Australian government had for decades regulated the sale and advertising of tobacco and the latest rules were simply the next step.

"Tobacco is the only legal product sold in Australia which, if it is used as intended, will kill you. No other product is in that category," she said.

Warnings on cigarettes sold in Australia first appeared in the 1970s, while TV and radio ads for [tobacco](#) products were banned in 1976.

Cigarette packets now cannot be displayed at the retail point-of-sale and

are mostly hidden behind counters.

The [government](#) conducted testing to see which colours and images would best deter people from picking up a packet of cigarettes, determining the drab olive-green combined with a graphic warning worked best.

Australia estimates it has 15,000 deaths each year from tobacco-related illnesses.

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