FROM BRANDING TO PROTECTION

What the European Commission's revised Tobacco Products Directive means for brand owners

By Fred Jordan

On April 3, 2014, the European Commission published in the *Official Journal of the European Union* an updated version of the Tobacco Products Directive (TPD), effectively repealing the 2001 version, on grounds of safeguarding public health and ensuring the proper functioning of the European Union's (EU) internal market.

Brought into force on May 19, 2014, the revision regulates ingredients and maximum emission levels, labeling and packaging (including health warnings), product presentation and appearance, traceability measures and security features. It also covers cross-border sales and novel tobacco products, including e-cigarettes and herbal products for smoking.
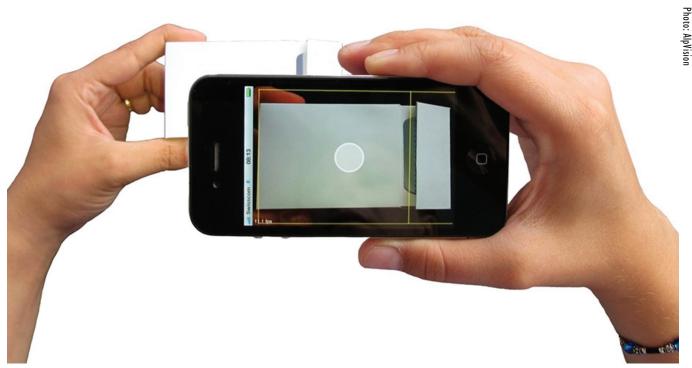
TPD Chapter II specifies the terms for tobacco labeling and packaging. These provisions require that each unit packet and any outside packaging carry a specific health warning (e.g. "smoking kills"), combined with a color photograph, covering 65 percent of both the front and back of the packaging and surrounded by a black border. In addition, the directive bans any element, feature or description that could promote or encourage tobacco consumption (e.g., terms such as "light," "organic" and "slim"). Lastly, each packet must be made of paperboard or other soft material and have a cuboid shape.

The EU's Tobacco Advertising Directive of 2003 already put a stop to the advertising of tobacco products in the press and other printed materials, with the exception of trade magazines, radio and events. Packaging alone has therefore been the only branding medium for cigarette manufacturers. Today, the revised TPD is making it possible for member states to "introduce further requirements … in relation to the standardization of the packaging of tobacco products."

In Europe, standardized or plain cigarette packaging has been recommended in a number of countries, including in Ireland, France and the United Kingdom. With the enactment of the Tobacco Plain Packaging Act 2011, however, Australia is the first and only country in the world to require generic packaging. The tobacco companies operating in Australia now sell their cigarettes in a mark-free, dark-brown rectangular cardboard carton.

Evidence of the effectiveness of homogeneous cigarette packaging is mixed. A recent study conducted by KPMG for British American Tobacco Australia, Imperial Tobacco Australia Ltd. and Philip Morris Ltd. found that both consumption and illicit use of tobacco in Australia grew in 2013. By contrast, a new evidence brief by the World Health Organization shows that "… plain tobacco packaging measures encourage more people to stop smoking and fewer to start."

Concern that standardized packaging for tobacco will increase the sale of counterfeit cigarettes has also been raised. ▶

Using a smartphone to detect covert security features

In a 2012 *Huffington Post* blog, Roy Ramm, a former commander of Specialist Operations at New Scotland Yard, claims that "… by introducing plain-packaging legislation … the ordinary consumer [would no longer be able] to tell whether their cigarettes are counterfeit or not." He argues that plain packaging will not only be inherently easier to forge, but will also boost production of both cheaper and fake cigarettes.

Conversely, a recent study conducted by the Australian Centre for Behavioural Research in Cancer on the unintended consequences of standardized packaging of tobacco products in Australia found "… no indication of any increase over time in the percentage of smokers reporting use of unbranded illicit tobacco."

Emotions surrounding branded versus plain cigarette packaging run high. It is, perhaps, not surprising then that the newly adopted directive introduces anti-counterfeiting measures as well.

For traceability purposes, the directive mandates that EU member states add a "unique identifier" to each unit packet. The marker must allow any agent involved in the cigarette industry's supply chain to determine the time and place of manufacturing all the way down to the invoice/payment records of the distribution companies and retail stores. While the technical standards for the tracking and tracing system have not yet been defined, the directive recommends that this technology be developed and operable at union level. In order to ensure transparency, the directive also strongly advises that data processing and storage occur independently of manufacturers of tobacco products.

To combat the illicit trade of tobacco products, the directive also requires that all unit packets of tobacco products carry a "tamper-proof security feature, composed of visible and invisible elements." The purpose of the security feature is to "facilitate the verification of whether or not tobacco products are authentic."

As a result, the challenge for tobacco manufacturers will be to find ways to add the unique identifier and security feature imposed by the directive, while preserving, if anything, what is left for branding (e.g., colors, imagery, corporate logos and trademarks) or any other element required by national legislation (e.g., tax stamps, national identification marks and price marks).

While design specifications and traceability measures will be difficult—and almost impossible to change or manipulate—the choice of security feature is broader. Indeed, the directive states that the security feature may include both visible and invisible elements. Manufacturers would therefore be well advised to select an invisible security feature that would not only comply with the directive but also free up any design and branding surface left.

Very few large-scale, covert security features are deployed in the tobacco industry today. Some use microscopic particles (taggants), some use invisible inks (digital tax stamps), and others use the varnish coating printed on most tobacco packaging and labeling to add a glossy finish (Cryptoglyph). This last process adds a pseudo-random pattern of invisible micro-holes (60 microns) into the overprint varnish. Non-intrusive and totally invisible, these micro-holes cover the entire surface of the packaging without changing its design. Unlike most covert anti-counterfeit technologies available on the market today, this invisible security feature can also be detected with a smartphone. This solution would therefore be an encouraging first step in helping member states transpose the directive in time for the May 20, 2016, deadline, while preserving their brand identities. **TR**

Fred Jordan is the CEO of AlpVision.