

Tobacco giant to challenge plain packaging laws

SYDNEY, AUSTRALIA: Global tobacco giant Philip Morris will launch legal action over Australia's plan to introduce plain cigarette packaging, it said today, warning the damages bill could run to billions of Oz dollars.

Under proposed government legislation aimed at reducing smoking rates, due to take effect next year, all logos would be removed from cigarette packaging in Australia, with company brand names printed in a specific font.

All packets would also be a bland olive-green and contain graphic health warnings such as black, diseased gums, blinded eyes and children in hospital.

The proposal has enraged the tobacco giants, who say it would reduce their profits and see counterfeit products flood the market because plain packaging is easier to reproduce.

Hong Kong-based Philip Morris Asia (PMA), which distributes brands such as Marlboro in Australia, will argue that Canberra is breaching a bilateral investment treaty between the two countries.

'A clear violation'

"The forced removal of trade marks and other valuable intellectual property is a clear violation of the terms of the bilateral investment treaty between Australia and Hong Kong," PMA spokeswoman Anne Edwards said.

"We believe we have a very strong legal case and will be seeking significant financial compensation for the damage to our business."

The notice of claim, which was to be served on Monday, will start a three-month negotiation period and if no resolution is reached the matter will proceed to arbitration.

"Legal action is not a course we take lightly, but the government has unfortunately left us with no other option," added Edwards.

The Philip Morris statement cited Don Wallace Jr., chairman of the International Law Institute and an expert on investor-state disputes, as saying compensation could be significant.

"Plain packaging legislation would expose Australia to well-founded claims under the treaty, potentially costing the Australian government billions of dollars in damages," said Wallace.

Massive costs

Canberra says 15 000 Australians die of smoking-related diseases every year, and that tobacco use costs the country Aus\$31.5 billion (\$33 billion - about R220 billion) a year in healthcare and lost productivity.

Though Australia would be the first country in the world to mandate plain packaging, New Zealand, Canada and Britain have considered similar policies, and Prime Minister Julia Gillard said the government would not be swayed.

"We're not going to be intimidated by big tobacco's tactics, whether they're political tactics, whether they're public affairs kind of tactics out in the community or whether they're legal tactics," she said.

"We're not taking a backward step. We've made the right decision and we'll see it through."

Health Minister Nicola Roxon added that the government was confident it was on "very strong legal ground".

"Tobacco is unlike any other legal product in the world. We know so much about the harm it causes," she told state broadcaster ABC.

"So in those unusual circumstances, taking steps as we have already done in Australia to severely restrict advertising, has not been able to be challenged.

"Similarly, we think this next sensible, logical step will not be successfully challenged either."

Source: AFP

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