

GTNF 2015

Bologna, Italy

Sept. 15--17

Session 5: Plain packaging

I sat through the whole of the second regulation stream panel session of the GTNF in Bologna in September, which was on plain packaging, and not one person came near to addressing my major question: Why do people within the tobacco industry insist on calling the type of tobacco packaging introduced in Australia in 2012 “plain”? It is not plain; if anything, it is garish, with images that could awaken the dead. Calling it plain allows great swaths of people to remain uncommitted on the subject: “Plain, you say. Well that doesn’t sound too bad. It could be worse.” To get some current neutrals on the side of the industry, such packaging would have to be described as “medically explicit,” “X-certificate,” “ugly” or “olive-colored.” It is necessary to get people angry—or, at the very least, involved. When the Australian government first came up with its plan for medically explicit packaging, it made an error of judgment in saying that the packs were to be made as ugly as possible and that the background color would be olive green. Immediately, it had the country’s olive growers up in arms, and it had to retreat into “drab brown” or some such. I still make a point of referring to the background color as olive green.

At the moment, there is a lot of interest in medically explicit packaging, but probably for the wrong reasons as far as the tobacco industry is concerned. Four countries, the session was told, were challenging the Australian regulations through the World Trade Organization (WTO), though their challenges had been rolled into one panel procedure. But more than 30 countries, about a quarter of the WTO membership, had joined as third-party observers, making it the organization’s biggest dispute ever. One estimate had it that 21 countries were thinking about introducing such legislation; so it seems likely that most of the third-party observers are in that position but that they are keen firstly to see what the WTO’s ruling is. The ruling is expected to be made sometime next year.

This is possibly positive as far as the tobacco industry is concerned because, the session was told, the challengers were likely to win on some issues and lose on others, and that such an outcome would lead to both sides appealing and dragging the process out even longer. And if the final ruling went against Australia, one of three broad courses of action would occur: Australia could reverse its policy, it could compensate the complainants, or the complainants could retaliate.

Nobody is questioning whether it is a good idea for people to be discouraged from smoking. What is being questioned, beyond the issue of whether medically explicit packaging destroys intellectual property rights, is not whether people should be encouraged not to smoke but whether such packaging is an efficacious route to this goal.

The slippery slope principle was raised, but history informs us that it is unlikely that this would encourage the alcohol, sugar and processed meat industries to decide to stand in solidarity with the tobacco industry, though they might stand together. And not too many people could believe that the slippery slope is going to lead to products that raise no or few health concerns being put into medically explicit packaging.

Somebody made the point that medically explicit packaging was not about denormalizing smoking but about making it invisible; but surely, making smoking invisible is simply a subset of denormalizing it. It was said also that medically explicit packaging took the industry to a point where it was impossible to announce innovations to smokers, that innovations would therefore not be made, and that an industry that did not innovate was in jeopardy. This sounds like a fairly natural progression, or regression, but I don't think it is. That the industry cannot announce innovations is simply the object of the exercise, but this does not mean that the industry cannot or should not innovate. Consumers are remarkably good at picking up on changes to products, and not even the most repressive regimes can stamp out word of mouth or its more technical soul mates. Finally, does this mean that the industry is in jeopardy? I don't think so—at least not until nicotine is banned.