

Speaking Notes
for Purdy Crawford
Chairman and Chief Executive Officer
IMASCO LIMITED

"Executive Mess" Lunch at B.A.T

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Background on the Plain Packaging Debate in Canada

- * Plain packaging has been a plank in the platform of the anti-tobacco groups in recent years. It is seen as a means of taking the glamour away from cigarettes and breaking the link with sponsorships. The current Canadian Health Minister calls it "de-marketing".
- * As the contraband tobacco market grew and associated societal problems worsened over the course of 1993, the federal government grudging began to lean towards an economic solution i.e. lower taxes.
- * Sensing this, anti-tobacco groups seemed to intensify their efforts in late 1993 and the early weeks of 1994. Their thrust was to argue for alternatives to a tax reduction as high taxes had been their showpiece strategy for several years.
- * The Canadian Cancer Society released a research paper in November 1993 (and re-released it in January 1994) which concluded that plain packaging would discourage young people from taking up smoking. A second group released a study entitled "Protecting Health and Revenue: An Action Plan to Control Contraband and Tax Exempt Tobacco" and several news conferences were held by other groups to denounce tobacco company sponsorships.
- * Despite these efforts to slow the government down, political circumstances brought the issue to a head in February 1994. A recently elected federal government needed to find a workable solution to the smuggling problem and the new premier in Quebec was even more anxious.

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- * Quebec was hardest hit by tobacco smuggling and lobbying for a tax rollback on the part of the retail trade was very aggressive. Not surprisingly the separatist opposition Parti Québécois was "making hay" on the government's lack of success with the issue and the premier was trailing in the polls in an election year. So, as often happens in Canada, national unity became a very real factor in an otherwise unrelated debate.
- * In February, the prime minister announced the tax rollback while emphasizing that the government was also sensitive to the concerns of anti-tobacco groups. He promised a series of tough new measures aimed at reducing tobacco consumption, including the consideration of plain packaging by the Parliamentary Health Committee.
- * The anti-tobacco lobby knows a political opportunity when it sees one. Ken Kyle of the Canadian Cancer Society was quoted in the media: "...absolutely the best chance we've ever had to see the kind of meaningful steps needed to control tobacco use."

The Hearings

- * On March 24, the Chairman of the Standing Committee on Health called a news conference to announce a study and public hearings on the subject of plain packaging. The hearings were to begin in mid-April and the Committee's report was scheduled for late June.
- * There was controversy right from the start. After giving a mandate to the Committee but before the hearings had got underway, the Health Minister was quoted in the media as being committed to introducing plain packaging. This caused some of the Committee members to wonder out loud if there was any point in embarking on the study. It also provides a clear indication of the kind of uphill battle the industry was facing - again disproportionately so because we were in the post-rollback environment.
- * The controversy continued on the opening day of hearings. The very first witness, a senior Health Canada official, said he personally favoured plain packaging but that there was insufficient evidence to go ahead at his time.

- * This very useful statement came as a pleasant surprise to the industry and it helped set the tone for the balance of the hearings. If the Committee's report was more balanced than initially expected, the fact that the Health Ministry conceded a lack of evidence was certainly a factor.
- * Apart from some initial good luck, the industry's approach to the plain packaging hearings has been comprehensive, systematic and well executed.
- * The campaign was quarterbacked by the Canadian Tobacco Manufacturers' Council (CTMC). Extra staffing was added on an interim basis there were special and extraordinary efforts made by employees of the member companies, ourselves included. The strategy was to demonstrate two things: that plain packaging would not effect consumption or starting, and that plain packaging would have negative economic consequences. In my view, they did an excellent job.
- * But we had to do more than convince ourselves and there was little hope in convincing the Committee which was predisposed towards supporting the Health Minister. CTMC communications were stepped up both internally and externally. An internal synopsis was prepared after each day of hearings. For broader distribution (politicians, media, industry stakeholders and supporters) there was a hard hitting summary called Plain Packaging Bulletin.
- * In all there were 10 sessions of hearings with representations from various government departments, a number of anti-tobacco and health groups as well as the tobacco industry, its stakeholders and some commissioned experts.
- * One brief that drew headlines and ruffled the feathers of economic nationalists was the position of Philip Morris and RJR. They jointly presented an opinion by Carla Hills which pointed out that trademarks and other forms of intellectual property are protected under the North American Free Trade Agreement and the GATT. It created a public uproar, and perhaps could have been handled better, but there are some indications that the message got through.

What Was the Outcome

- * It depends upon who you speak to or even which newspaper you read. I give you the headlines from two prominent newspapers reporting on the same story, on the same day.

The Montreal Gazette:

"MPs' panel supports plain packs for cigarettes."

The Globe and Mail:

"Plain cigarette packaging rejected by House committee."

- * In fact, three members of the eleven on the Committee dissented (the two Bloc Québécois members and one of two Reform members)
- * Here is what the majority of the Committee actually recommended:
 1. *That the federal government establish the legislative framework required to proceed with plain or generic packaging of tobacco products;*
 2. *That the legislation be introduced when Health Canada concludes its current study on the effects of plain packaging on tobacco consumption, if the results of that study support the available evidence that such packaging will reduce consumption;*
 3. *That the federal government require that plain or generic packages be produced in a manner that minimizes the possibility of contraband products, and that the design incorporate printing and packaging technologies that will make duplication as difficult as possible.*
- * The study referred to in the second recommendation is expected to be completed by early 1995 and it has obviously become very important. The CTMC, through its president, Rob Parker, will participate in planning the study and will push to have its design reviewed by qualified outside experts.

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- * The difficulty is that it may not be possible to draw reliable conclusions from such a study, irrespective of how it is designed, and we certainly know what the Health Minister would like to do. The risks are very real!

Conclusion

- * Ultimately it will be the Cabinet that decides the fate of branded cigarette packaging in Canada. We knew that all along i.e. the Committee hearings were really only a skirmish along the way.
- * A dilemma of the hearings process is that you necessarily tip your hand and there is evidence in the Committee report that the government will attempt to "work around" legal and economic problems raised by the industry in any legislation that may come forward.
- * However, the hearings were still very useful in developing industry arguments, forging alliances with stakeholders etc. All of this was done in a professional way and these will be useful preparations for the bigger battle to come.
- * On balance, we feel that the outcome was about as good as could have been expected. Looking ahead, we have to concern ourselves with the Province of Ontario which has given itself legislative authority to introduce plain packaging. At the federal level, we have some time to get ready for the next round. Current thinking is that this should include providing the government with credible information to support a decision not to proceed. We may also put forward some ideas that are actionable by the government and still acceptable to the industry. An example might be an information campaign that will help ensure that the smoking decision is made only by adults, and only on a fully informed basis.