



PHILIP MORRIS

ASIA LIMITED

NEWS RELEASE

PHILIP MORRIS ASIA FILES LAWSUIT AGAINST THE AUSTRALIAN GOVERNMENT OVER PLAIN PACKAGING

November 21, 2011

HONG KONG -- Philip Morris Asia Limited (PMA), Hong Kong, owner of Australian affiliate, Philip Morris Limited (PML), today announced that it has begun legal proceedings against the Australian Government by serving a Notice of Arbitration under Australia's Bilateral Investment Treaty with Hong Kong. The Notice of Arbitration was served on the Government immediately following the passage of plain packaging legislation for tobacco products by the Australian Parliament.

Commenting on today's announcement, PMA spokesperson Anne Edwards said: "We are left with no option. The Government has passed this legislation despite being unable to demonstrate that it will be effective at reducing smoking and has ignored the widespread concerns raised in Australia and internationally regarding the serious legal issues associated with plain packaging."

PMA is seeking suspension of the legislation and substantial compensation for the loss of the company's valuable trademarks and investments in Australia that will result from plain packaging. The company expects damages to amount to billions of dollars and that the legal process will take 2 to 3 years.

"We are confident that our legal arguments are very strong and that we will ultimately win this case," added Anne Edwards.

PML also intends to pursue claims under domestic law before the High Court of Australia.

Background

International opposition to plain packaging

Close to 60 international business organizations, intellectual property groups and foreign governments have raised serious concerns with the Australian government over the legality of plain packaging, its inconsistency with Australia's trade and intellectual property treaty obligations and the lack of evidence that the policy will lead to reduced smoking. These same issues were cited by other countries that have considered and rejected plain packaging.

Domestic concerns with plain packaging

Since plain packaging was first proposed business, legal and intellectual property groups as well as small business owners and operators across Australia have voiced their opposition to plain packaging and have argued that it will lead to numerous adverse consequences. These include the illegality of plain packaging, increased counterfeiting and the burden that plain packaging will have on small businesses due to impaired customer service, stock management and lost sales to illegal operators.

Why plain packaging impacts PMA's business in Australia

PMA owns PML which has been manufacturing and selling cigarettes in Australia since 1954. Over this time, PML has built well-known, even iconic, brands such as *Marlboro*, *Alpine*, *Longbeach*, *Peter Jackson*, *choice* and *GT*. Plain packaging turns tobacco products into a commodity, robbing PML of its ability to differentiate its products from competitor brands, and thereby substantially diminishing the value of PMA's investments in Australia.

The Australia – Hong Kong Bilateral Investment Treaty (BIT)

The Treaty was entered into by the Governments of Hong Kong and Australia in 1993 and seeks to create favorable conditions for greater investment and promote economic cooperation, by providing reciprocal protection for investments made in one country by investors from the other.

Australia is in breach of the BIT because plain packaging:

- Amounts to unlawful expropriation of PMA's investments and valuable intellectual property without compensation (Article 6(1))
- Fails to provide fair and equitable treatment to PMA's investments in Australia (Article 2(2))
- Unreasonably impairs PMA's investments in Australia (Article 2(2))
- Fails to provide full protection and security for PMA's investments in Australia (Article 2(2))
- Breaches Australia's international obligations in relation to PMA's investments (Article 2(2)) by violating The Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), the Paris Convention for the Protection of Industrial Property and the WTO Agreement on Technical Barriers to Trade (TBT)

Steps to date

On June 27, PMA first notified the Government that it would take legal action under Australia's Bilateral Investment Treaty with Hong Kong if Australia proceeded to pass plain packaging legislation. In accordance with the terms of the BIT, the notice triggered a three month mandatory negotiation period between PMA and the Australian Government. With the passage of the legislation, it is clear that PMA was unable to resolve the dispute with the Government during this time. The notice served on the Australian Government today begins the formal legal proceedings under the Arbitration Rules of the United Nations Commission on International Trade Law 2010. PMA is proposing Singapore as the seat of arbitration and that the appointing authority be the Secretary-General of the Permanent Court of Arbitration at The Hague.

About Philip Morris International Inc. (PMI)

Philip Morris International Inc. (PMI) is the leading international tobacco company, with seven of the world's top 15 international brands, including *Marlboro*, the number one cigarette brand worldwide. PMI's products are sold in approximately 180 countries. In 2010, the company held an estimated 16.0% share of the total international cigarette market outside of the U.S., or 27.6% excluding the People's Republic of China and the U.S. For more information, see www.pmi.com.

About Philip Morris Asia Limited (PMA)

Philip Morris Asia Limited (PMA) manages PMI's business in the Asia region. PMA is based in Hong Kong where the company was incorporated under the Hong Kong Companies Ordinance in 1994. PMA owns the Australian affiliate, Philip Morris Limited (PML).

About Philip Morris Limited (PML)

Philip Morris Limited (PML) began operations in Australia in 1954 and has more than 800 employees. Based in Melbourne, the company manufactures and sells a number of well known brands, including *Marlboro*, *Alpine*, *Longbeach*, *Peter Jackson*, *choice* and *GT*. In 2010, PML held an estimated 37.5% share of the Australian cigarette market.

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