

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Twelfth Delegated Legislation Committee

## DRAFT STANDARDISED PACKAGING OF TOBACCO PRODUCTS REGULATIONS 2015

*Monday 9 March 2015*

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**The Committee consisted of the following Members:**

*Chair:* SIR ROGER GALE

- |  |  |
|--|--|
| † Abrahams, Debbie ( <i>Oldham East and Saddleworth</i> ) (Lab)              | † Jowell, Dame Tessa ( <i>Dulwich and West Norwood</i> ) (Lab)         |
| † Barron, Kevin ( <i>Rother Valley</i> ) (Lab)                               | † Newton, Sarah ( <i>Truro and Falmouth</i> ) (Con)                    |
| † Berger, Luciana ( <i>Liverpool, Wavertree</i> ) (Lab/Co-op)                | Paisley, Ian ( <i>North Antrim</i> ) (DUP)                             |
| † Brown, Mr Russell ( <i>Dumfries and Galloway</i> ) (Lab)                   | † Penrose, John ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Burstow, Paul ( <i>Sutton and Cheam</i> ) (LD)                             | † Stunell, Sir Andrew ( <i>Hazel Grove</i> ) (LD)                      |
| † Carmichael, Neil ( <i>Stroud</i> ) (Con)                                   | † Wilson, Phil ( <i>Sedgefield</i> ) (Lab)                             |
| † Cunningham, Alex ( <i>Stockton North</i> ) (Lab)                           | † Wollaston, Dr Sarah ( <i>Totnes</i> ) (Con)                          |
| † de Bois, Nick ( <i>Enfield North</i> ) (Con)                               |  |
| † Ellison, Jane ( <i>Parliamentary Under-Secretary of State for Health</i> ) | Marek Kubala, <i>Committee Clerk</i>                                   |
| † Howell, John ( <i>Henley</i> ) (Con)                                       |  |
| † Jones, Andrew ( <i>Harrogate and Knaresborough</i> ) (Con)                 | † <b>attended the Committee</b>  |

The following also attended, pursuant to Standing Order No. 118:

- |   |  |
|---|--|
| Burley, Mr Aidan ( <i>Cannock Chase</i> ) (Con)     | Field, Mr Frank ( <i>Birkenhead</i> ) (Lab)                      |
| Chope, Mr Christopher ( <i>Christchurch</i> ) (Con) | Sutcliffe, Mr Gerry ( <i>Bradford South</i> ) (Lab)              |
| Cooper, Rosie ( <i>West Lancashire</i> ) (Lab)      | Watkinson, Dame Angela ( <i>Hornchurch and Upminster</i> ) (Con) |
| Davies, Philip ( <i>Shipley</i> ) (Con)             |  |

# Twelfth Delegated Legislation Committee

Monday 9 March 2015

[SIR ROGER GALE *in the Chair*]

## Draft Standardised Packaging of Tobacco Products Regulations 2015

4.30 pm

**The Chair:** Good afternoon. This is not a matter of record at this stage, because I have not yet said the magic words “order, order” yet. The reason for that is because I do not want to eat into time that the Committee will want to use to debate this issue. I do, however, want to say a couple of things that I hope will be helpful to members of the Committee.

I have received a number of communications about this measure in my capacity as Chairman. People outside this place do not tend to understand that the Chairman is exactly that: he is the Chairman and he is impartial, and I will remain so. I have, however, as a consequence discovered that there is a certain amount of interest in this subject. That being so—it is quite clear from the number of Members present who are not members of the Committee, but they are quite entitled to attend and to speak—there will obviously be a demand for time in this debate. I would therefore be grateful, and it would help colleagues, if you kept your remarks reasonably brief.

The Minister has indicated that she intends to speak as briefly as she can at the beginning and, as a courtesy, I hope that she may be allowed time at the end—although this is not in my gift—to respond to all the points made. On that basis, justice may not only be done, but be seen and heard to be done. I hope that is okay.

4.31 pm

**The Parliamentary Under-Secretary of State for Health (Jane Ellison):** I beg to move,

That the Committee has considered the draft Standardised Packaging of Tobacco Products Regulations 2015.

It is a great pleasure to serve under your chairmanship, Sir Roger. I am pleased to introduce regulations to bring in standardised packaging for tobacco products. As I have said in the House, tobacco use remains one of our most significant public health challenges, with the burden of smoking placing enormous strain on the NHS and holding us back in the battle against cancer.

More people in the UK die from lung cancer than from any other form of cancer, and almost nine in 10 of all lung cancers are caused by smoking. Recent statistics show that lung cancer is the leading cause of cancer mortality in women, having overtaken breast cancer. That is why the Government have prioritised action on reducing smoking rates and why the publication of a comprehensive tobacco control strategy was among the first public health actions that we took.

Having looked carefully at the evidence and the range of arguments, I am clear that the introduction of standardised packaging is highly likely to bring important

health benefits and that it should be a key element of our overall tobacco control strategy. That is why we are considering these regulations today.

The Children and Families Act 2014 gives the Secretary of State powers to regulate the retail packaging of tobacco products. In November 2013, the Secretary of State and I commissioned Sir Cyril Chantler, the eminent paediatrician and medical researcher, to undertake an independent review into whether standardised packaging would be likely to have an effect on public health, in particular in relation to children. Sir Cyril’s thorough and well considered report, published in April 2014, concluded that such packaging would be highly likely to have a positive impact on public health.

On publication of the review, I announced to the House that the Government were minded to proceed with standardised packaging, subject to a final consultation. There has been extensive engagement with the public and stakeholders on the proposal, including two public consultations: one in 2012 and a further, final one in 2014. The Department of Health considered carefully all responses to the consultations, together with extensive consideration of the wider issues, including the policy’s potential unintended consequences.

**Mr Frank Field (Birkenhead) (Lab):** In the consultations, did anyone speak against the motion the Minister proposes today? If there were any qualifications, were they not about timing and how the regulations were to be phased in to protect those workers whose livelihoods are connected to the tobacco industry?

**Jane Ellison:** The second consultation was on the regulations, which we published in draft at that time. The substantive responses were about the regulations, and issues such as timing were mentioned by some people. We can deal with those—I will mention timing.

**Mr Gerry Sutcliffe (Bradford South) (Lab):** In that second consultation there were issues about the printing of packets. The Government’s advice to packaging companies was to diversify. I accept that entirely, but the companies in my constituency, where more than 400 jobs are now at risk, are saying that that will take them two to three years. Have the Government acknowledged, in any way, that that may be the time scale for diversification to take place?

**Jane Ellison:** The consultation was on the regulations that we published, and focused on the issue of public health. The Department published the impact assessment, which looked at all those economic issues and associated policies. There are details in the impact assessment, which has been made public.

**Mr Sutcliffe:** With due respect, the Minister has not answered the question. Has any conversation taken place about how long it takes print companies to diversify into different products?

**Jane Ellison:** The answer that I give the hon. Gentleman is that I am the public health Minister, and I am introducing regulations that relate to a public health measure. Clearly, people can put in other comments during the course of the consultation. Some of those

issues have been considered in the impact assessment, but it is not for me to give advice on an issue such as that in my capacity.

**Kevin Barron** (Rother Valley) (Lab): Does the Minister think it might be possible that the print companies that my hon. Friend the Member for Bradford South is talking about could diversify into printing standardised packaging for cigarettes, as opposed to the current ones?

**Jane Ellison:** I have heard that argument made in the discussions that we have had over the past 18 months. The evidence supports the objectives of standardised packaging, which include reducing the appeal and attractiveness of tobacco packs, especially to brand-conscious younger people; improving the impact of health warnings and giving them greater salience on tobacco packs; and reducing the potential for alluring tobacco packs to create false perceptions or mislead consumers about the health effects of using tobacco. That might, for example, include the use of lighter colours on packs, misleading people into believing that those cigarettes are safer when, in fact, they are not.

**Neil Carmichael** (Stroud) (Con): Does the Minister recognise that there is a possibility that if firms cannot distinguish their brands from others, they might all attempt to lower prices to gain some sort of competitive advantage?

**Jane Ellison:** If I get the chance towards the end of our debate, I am happy to talk about the experience in Australia, where those issues have been looked at. I could talk about the study that has been made in the course of considering all factors that are relevant to the policy. That issue has been considered and I am happy to touch on it later, if I could develop my argument a bit more.

Marketing theory and common sense tell us that packaging and branding are promotional tools, and that limiting those promotion elements will decrease the attractiveness of tobacco products. Since the ban on advertising tobacco products in the UK, packaging has become key for the promotion of tobacco. One tobacco company referred to tobacco packaging as its mobile billboard.

Opponents of standardised packaging say that there is no evidence to support its introduction. In fact, the opposite is true. Sir Cyril Chantler says in his review that the evidence

“points in a single direction”,

and that there is no

“convincing evidence pointing the other way.”

Although the only country to have implemented standardised packaging is Australia, there is international momentum towards introducing this important public health measure, with many other countries taking positive steps towards legislating. The Committee might be interested to know that those countries include Ireland, France, Norway, New Zealand and Turkey. The Australian Government have made it clear that they expect the benefits of standardised packaging to be generational and to appear over the longer term. Cancer Council Victoria has recently reviewed the available Australian evidence and data and concluded:

“Prevalence of smoking in Australia fell dramatically between 2010 and 2013... plain packaging is likely to continue to contribute along with Australia’s other tobacco control policies to further reducing the prevalence of smoking in Australia.”

**Mr Christopher Chope** (Christchurch) (Con): Will my hon. Friend tell the Committee whether Australia has anti-smuggling devices built into the standardised packaging? That was promised by her predecessor in November 2013 and we are now told that the Codentify material, which is printed on packets on a voluntary basis, will be outlawed by the regulations, to the dismay of Her Majesty’s Revenue and Customs.

**Jane Ellison:** That is not quite right. Codentify is quite a complex issue. I am happy to pick that up in my summary and deal with it. I am coming to the issue of the illicit market more generally, but I will deal with the detailed point in due course.

There have been suggestions that standardised packaging may lead to a growth in the illicit tobacco market, and I want to assure the Committee that that issue has been considered carefully. HMRC, which leads on reducing the size of the illicit tobacco market, has undertaken a detailed assessment of the impact of standardised packaging on the illicit trade of tobacco, which was published and placed in the Library in February. The HMRC report concludes:

“We have seen no evidence to suggest the introduction of standardised packaging will have a significant impact on the overall size of the illicit market or prompt a step-change in the activity of organised crime groups.”

**Nick de Bois** (Enfield North) (Con): Will the Minister draw attention to HMRC’s comments on illicit whites? The report states that

“standardised packaging will provide a suitable environment in which illicit white cigarettes will continue to grow in the UK illicit market.”

All cigarettes are bad, but illicit cigarettes are ghastly.

**Jane Ellison:** Like me, my hon. Friend has read the whole of the HMRC report. I quoted from the conclusion, which essentially says that over the past decade HMRC has been successful in reducing the overall size of the illicit market in the UK. Although that might change following the introduction of standardised packaging, HMRC is confident that it can continue to reduce that market, as it has been doing successfully for the past decade.

**Philip Davies** (Shipley) (Con): Has the Minister spoken to my right hon. Friend the Member for Ashford (Damian Green), a former Home Office Minister, about this issue? When he was on a trip to China, the Chinese authorities told him that we must be round the bend to introduce plain packaging. There is a whole industry in China that is already selling lots of this stuff to Australia, and it cannot wait until the UK has plain packaging because we are the next big market to go after. Has the Minister had that discussion with the Home Office, which has had that information from other people?

**Jane Ellison:** As my hon. Friend is aware, this is a Government measure. Anybody—including Chinese smugglers—who wished to submit detailed points to the consultation could have done so if they wished.

[Jane Ellison]

All those points, including unintended consequences, were taken into account and considered in the round in introducing this policy. I am particularly interested in evidence-based policy, which is why it is so useful to have a detailed HMRC report on this issue.

Concerns have been expressed about a slippery slope towards standardised packaging for other products such as unhealthy foods or alcohol. The Government have no intention to extend standardised packaging to any product other than tobacco. Tobacco is a uniquely harmful consumer good, and as such it has been treated uniquely in regulatory terms for many years. Any amount of smoking is addictive and harmful to health, and half of all regular smokers are eventually killed by smoking-related illness—a recent study even put it as high as two thirds.

Some hon. Members rightly have concerns about the legal implications of introducing standardised packaging. Let me be clear that thorough consideration has been given to such concerns. As with other tobacco control legislation, the tobacco industry is likely to challenge this measure should the regulations be made. Indeed, the industry has already threatened legal action. However, we believe that these regulations are a proportionate and justified response to a major public health challenge, and that they will be defensible in the courts.

**Dr Sarah Wollaston (Totnes) (Con):** Does the Minister agree that one reason the tobacco industry challenged these measures is that it knows how effective they will be in reducing their customer numbers?

**Jane Ellison:** All previous regulations to reduce promotion and advertising were opposed for similar reasons, and I would point to the success that they had, so I can only agree with my hon. Friend.

**Philip Davies:** Will the Minister give way?

**Jane Ellison:** I will deal with the next point, if I may.

The regulations will standardise the retail packaging of all cigarettes and hand rolling tobacco. They do not apply to other more specialist tobacco products, such as cigars or pipe tobacco. They specify mandatory colours for the parts of the packaging that are not taken up by health warnings or duty marks. The outside of packs will have to be a uniform dull brown, and the insides plain white. The brand name of the product may appear, but must be in grey with a fixed size and typeface. In other words, no branding will be allowed except for the brand name. They also specify that individual cigarettes must be plain white, with a cork effect or a white tip. However, they allow the brand name to be printed in small text. We have published an illustration of what a cigarette packet may look like if the regulations are introduced, which Members might have seen.

The regulations will also implement certain packaging-related requirements from the European tobacco products directive, which was agreed last year, such as the shape, material and minimum content of packs. The remainder of the tobacco products directive will be implemented through separate regulations. Although public health is a devolved matter, Scotland, Wales and Northern Ireland

have provided the necessary consent for the regulations to extend to their Administrations, meaning that standardised packaging will be a UK-wide measure.

Smoking is one of our most significant public health challenges. It is good news that smoking rates have declined in recent years, with 8% of 15-year-olds smoking regularly now, compared with 15% in 2009. However, I remain extremely concerned that more than 200,000 children start smoking every year.

**Philip Davies:** Does the Minister not accept that smoking rates have decreased in this country every single year since 1975? If we were to introduce plain packaging, no doubt smoking rates would continue to fall, as they would if we were not to introduce plain packaging, so I hope the Minister will not use that figure as an indicator that previous measures have reduced smoking, because smoking rates were reducing anyway. Has she seen the article today showing that daily smoking rates in the Australian states of Queensland, New South Wales, South Australia and Western Australia have gone up since plain packaging was introduced?

**Jane Ellison:** I am sure my hon. Friend and I would agree that we do not want any children to start smoking. We have seen acceleration in the rate of decline, and we want to keep the rate moving in that direction. We want children to grow up free from the burden of disease that tobacco brings. There is no room for complacency. Standardised packaging will build on the progress made over the past few decades.

**Luciana Berger (Liverpool, Wavertree) (Lab/Co-op):** In advance of the sitting, I was made aware of the article in *The Times* to which the hon. Member for Shipley refers. The article was on a report by Dr McKeganey, who was commissioned by British American Tobacco to produce a report against standardised packaging of tobacco.

**Jane Ellison:** I thank the hon. Lady for her interesting intervention, and the Committee will note the genesis of that analysis.

Health professionals have been calling on the Government to introduce standardised packaging. As I said when I announced that we would be introducing this legislation, a consultant respiratory physician told me last year that he is confident that the introduction of standardised packaging will end up saving more lives than he will in his entire career.

**Alex Cunningham (Stockton North) (Lab):** Does the Minister recollect the comments made by her predecessor, the hon. Member for Broxtowe (Anna Soubry), during a Westminster Hall debate on smoking? She talked about her personal experience of the attractiveness of menthol cigarettes with slim packaging and how sexy she found them to be. If cigarettes are attractive to a young woman such as that, surely they will be attractive to young people, which is all the more reason for introducing the regulations.

**Jane Ellison:** I was not present, but I have read the report of that debate, and the hon. Gentleman makes an interesting point about the appeal of tobacco to

young women. The Committee might be interested to know that one of the strongest anti-tobacco speeches by a British Prime Minister was made by Mrs Thatcher in January 1989 at the “Europe against Cancer” conference. She committed the British Government to the then enormous sum of £11 million to fight the take-up of tobacco by teenagers, with particular focus on teenage girls, which is a pertinent point.

Having considered all the evidence and wider issues, we are convinced that standardised packaging is entirely justified and will make an important contribution to bringing us one step closer to our first smoke-free generation. I commend the regulations to the Committee.

4.48 pm

**Luciana Berger:** It is a pleasure to serve under your chairmanship, Sir Roger.

Today we have an opportunity to consider secondary legislation to introduce standardised packaging of tobacco products, which puts us within touching distance of a precious victory for children. I thank everyone who has campaigned to get us to this point, especially Action on Smoking and Health and the Smokefree Action coalition. We are here today because colleagues on both sides of the other place successfully made the case for these provisions in the Children and Families Act 2014.

If approved, the regulations will require that the attractive promotional aspects of tobacco packaging be removed and that the appearance of all tobacco packs, including colour, be uniform. Standardised packaging will allow the promotion of strong health and anti-smoking messages. The packaging will not be plain or all white, as in some illustrations in media stories as recent as just a few days ago, and as some opponents of the measure suggest. Evidence shows that most smokers begin their habit as children. Among existing adult smokers, two thirds report that they began to smoke before the age of 18 and almost two fifths that they began before the age of 16.

**Philip Davies:** We have just heard that one reason it is so important to have plain packaging is so that we do not have colourful packaging that is attractive to people, but she is now saying that the packages will be colourful, not plain. I am not entirely sure what point she is trying to make. Will she elaborate? That would be helpful.

**Luciana Berger:** If the hon. Gentleman has had a chance to look at certain press reports, it will be clear that the packaging is being presented as being white. The point I am making is that the packaging is not white, but, as has been alluded to, it clearly points out the health implications of smoking in a way that does not happen at the moment.

**Mr Sutcliffe:** I understand my hon. Friend’s motivation for wanting to see the measure go through, but, as I said to the Minister, I represent print workers in Bradford who will be hit by it. My right hon. Friend the Member for Rother Valley says that they can diversify into providing the plain packaging, whatever colour it is, but it takes two years for designs to go through; it is a competitive market. What discussions have either my

hon. Friend the Member for Liverpool, Wavertree or the Government had to ensure that there is no impact on those jobs?

**Luciana Berger:** I thank my hon. Friend for making that representation on behalf of his constituents. I am not a member of the Government, so I have not received representations from the sector, although I have read some e-mail correspondence that was sent to me and I note the Minister’s response that the situation was taken into account in the impact assessment. I anticipate that we will hear more about that in her winding-up speech. The measure is not new; we have been discussing it for quite a while.

**Alex Cunningham:** Like my hon. Friend, I believe that print companies and others have had the opportunity to plan for this considerable change. What will young people find attractive about the pictures of diseased lungs and hearts that will appear on the coloured packs when the new standardised packaging comes into force?

**Luciana Berger:** I thank my hon. Friend for that important intervention, which highlights the crux of the discussion and why the Opposition support the statutory instrument. Standardised packaging will put off the next generation of smokers.

Half of all lifetime smokers will die from smoking-related diseases—more than 100,000 people across the UK every year. The cost to the NHS of treating those diseases is approximately £2.7 billion a year, although some say that that is a conservative estimate. The wider cost of smoking to our society is £12.5 billion.

When my right hon. Friend the Member for Leigh (Andy Burnham) was Secretary of State for Health, he made it clear that the next front in the fight against tobacco should be packaging. As we have heard, tobacco packaging is designed to be attractive to young people in particular. That is an obvious point, but if it was not effective, tobacco companies would not be spending the millions of pounds that they do on promoting their brands, nor would they have spent so much money on lobbying against standardised packaging. In the words of Simon Clark, head of the tobacco-funded lobby group Forest and the “Hands off our packs!” campaign:

“It’s like showing them a picture of a Lamborghini and a beaten up Ford Escort and saying, ‘Which one do you prefer?’”

Packaging should carry strong and unambiguous health messages that are not subverted by the remainder of the pack design.

As we have heard, a systematic review of peer-reviewed studies carried out for the Department of Health found that plain, standardised packaging is less attractive, especially to young people, and that standardised packaging would improve the effectiveness of health warnings and, crucially, reduce the mistaken belief, caused by the colour or size of the packaging, that some brands are safer than others. We all know that no kind of tobacco smoking is safe.

Sir Cyril Chantler’s review, published last year, was clear in concluding that standardised packaging “would serve to reduce the rate of children taking up smoking” and could lead to an “important reduction” in uptake and prevalence, and have a

[Luciana Berger]

“positive impact on public health.”

All previous evidence reviews have already shown that, and Sir Cyril said in his review:

“My overall findings are not dissimilar to those of previous reviews”.

On behalf of the Opposition, I thank Sir Cyril for his comprehensive report. As he says, if we reduce the number of children taking up smoking by only 2%, 4,000 fewer children will take it up each year. His review confirmed what public health experts have been arguing for some time: standardised packaging makes cigarettes less attractive to young people and could help to save lives.

I know that some people, including in the House and in Committee, believe that the measure is the latest manifestation of the nanny state, but they are misguided. This is a question not of impinging on the liberty of adults who choose to smoke, but of child protection. The majority of Members in both Houses are persuaded by that.

The measure has been debated numerous times in Parliament since 2009. It has been consulted on twice and just over a year ago we had a debate at which 450 voted in favour and only 21 against. That was more than a year ago, yet some Members are calling for further delay. In that time, experts warn that more than 200,000 children will have taken up smoking.

I am sure that Members are reassured that we finally have the opportunity to consider regulations that will turn intention into reality. I am also sure that they will be keen for things to progress as soon as possible. I hope that the Minister will tell us more about the next steps.

**Philip Davies:** I find it rather nauseating to hear the hon. Lady lecturing us all on protecting children, child abuse, how it is all about children and all that kind of stuff when in her home city of Liverpool she is helping to harbour as chief executive of her local authority someone implicated in the Rotherham child abuse scandal. If she is that bothered about child abuse—

**The Chair:** Order. The hon. Gentleman knows perfectly well that that is not relevant to the matter before the Committee.

**Luciana Berger:** We know that the proposal also has the overwhelming support of royal colleges, health experts, cancer charities and leading authorities on public health from across the country and beyond, including the World Health Organisation. The public also support it: opinion polls have repeatedly shown strong support. In January, a YouGov poll found that 72% supported the policy and only 15% were against.

Sadly, a minority remain determined to hold back progress. Tobacco companies and their lobbyists claim that standardised packaging has not worked in Australia and that sales have increased since its introduction. However, that is flatly contradicted by the industry's own reports to investors and independent market research data. For example, in Imperial Tobacco's six-monthly results for the first half of 2013, its chief executive officer, Alison Cooper, said:

“As I'm looking at Asia Pacific, I should also mention Australia, we've had the first six months of the plain pack environment in Australia. We've seen the market decline roughly 2% to 3%”.

The tobacco industry and its front groups claim that illicit trade in tobacco products would be made worse by the introduction of standardised packs. However, I echo the Minister in saying that HMRC has concluded that standardised packaging is not likely to have a significant effect on the illicit trade. In fact, all the key security features on existing packs will be on standardised ones, including a covert anti-counterfeit mark, which can be read by scanners, and number codes.

We have heard how the UK packaging industry could be hit. I am sympathetic to the points made in interventions by my hon. Friend the Member for Bradford South and my right hon. Friend the Member for Birkenhead, but cigarette packaging accounts for less than 5% of all packaging cartons manufactured in the UK and, as we have heard, it must be reinforced that tobacco packaging will still be needed under the new regulations. The packs will not be white and plain; they will be grey and will have on them medical pictures about the impact of smoking.

A certain newspaper reported that standardised packaging could be the final blow for small retailers, but they will not be required to adapt their premises, so they will not incur additional costs. Shops have adjusted successfully over many years to the decline in the number of smokers, from half the population in the 1960s to just under one in five now.

I have some questions for the Minister, if she has an opportunity at the end of the debate to respond. Will she kindly set out the process and time frames for the next steps to ensure that the measure is put in place as soon as possible, should the regulations be passed? Important questions were raised during the Government's consultation on the draft regulations, including on enforcement and implementation. Several local authorities advocated the need to ensure that trading standards officers were equipped and trained to implement the measures. What plans does she have to address that?

I also understand that retailers have emphasised the need for current stock to be sold before standardised packaging comes into force. Will the Minister please provide reassurance to retailers on that?

On the whole, I am satisfied that the Government have addressed all valid questions in their consultation response, and that the regulations will do the job that Parliament intends them to do. I sincerely hope that the Committee will approve the regulations. Doctors, cancer charities, campaigners and common sense all suggest that this is the right thing to do. We have had the consultation and the debate; now it is time to have the vote. We cannot have further delay—not when the health of thousands of children is at risk. One child taking up smoking is one too many. For the sake of those children, our young people and the health of our nation, I hope that we vote in support of the regulations.

**Several hon. Members** *rose*—

**The Chair:** Order. I shall, as is custom and practice, give priority to Members who are members of the Committee, although I hope very much that it will be

possible to accommodate Members who are not members of the Committee, but who have taken the trouble to come here to listen and participate in the debate.

5 pm

**Nick de Bois:** It is a pleasure to serve under your chairmanship, Sir Roger.

As we were not able to discuss this matter in the Chamber, I hope that the Minister will forgive me for presenting a fairly extensive list of questions that I believe need answering before the full House votes on the matter, should that be what comes to pass. I think what we have heard from both Front Benchers today is something that no one in this room will disagree with: smoking is a bad thing. What we have not heard, however, is evidence that plain packaging will make one iota of difference to it or indeed improve it.

I should like, if I may, to turn first to a matter that neither of those on the Front Benches have bothered to address: the legal element to the proposals. I was concerned to note that the impact assessment has not delivered any assessment of the legal costs that will be incurred through what I believe will be the inevitable defence to litigation; we know that tobacco companies have put the Government on notice that they intend to take action to protect their intellectual property. Why is that not included? Furthermore, although it is clear that the impact assessment makes an attempt to assess the impact on brands of down trading from the more expensive brands the cheaper ones, that has no bearing on the rights associated with intellectual property, which companies would be entitled to pursue.

Surely it would have been prudent to have included in the impact assessment a liability to the public purse that could run to billions. For example, I hope I am being helpful to the Minister in asking whether she has considered the implications of article 17 of the EU charter on fundamental rights and freedoms, which we are presently signed up to. That article enshrines protection of person property as a fundamental right. It states:

“Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest...Intellectual property shall be protected.”

**Debbie Abrahams** (Oldham East and Saddleworth) (Lab): Will the hon. Gentleman give way?

**Nick de Bois:** If I may, I would like to finish this point.

Of course, under any reasonable interpretation, the lawfully acquired possessions referred to in this case are the tobacco companies’ brands. Therefore no one can deprive the tobacco companies of those brands unless it is necessary for the general interest. Anti-smoking campaigners will no doubt argue that the general interest in this case is public health, but if the case for standardised packaging is not proved, and to a legal standard proof—not to the vagaries of politics and feel-good policy making I am witnessing here—the tobacco companies should receive fair compensation for their loss. It strikes me simply as prudent to plan for that, or better, to plan to avoid it. That is the question I have for the Minister: why has that not been done?

**Debbie Abrahams:** Does the hon. Gentleman not think that the right to health would trump article 17 of the EU charter? Also, article 152 of the EU treaty stipulates that the Community must consider health above all in its actions.

**Nick de Bois:** Of course, but the hon. Lady makes my point extremely well. The vagaries of the laws that we have to subscribe to should be sorted out before we sign up to something that could cost the public purse billions. I will extend my argument along those lines.

**Dr Wollaston:** But does my hon. Friend accept that this is not about intellectual property, and that the tobacco industry challenges anything that will affect its profits at every single opportunity? Does he agree, for example, with Philip Morris’s subsidiary taking action against the Uruguayan Government just for using graphic warnings on the front of packages?

**Nick de Bois:** My hon. Friend confuses my argument with a belief that I wish to protect tobacco companies. In fact, while I have been in the House I have voted for every measure that I suspect the tobacco companies would not have found helpful. I come from a creative and design marketing background, and I know very well what the intellectual property rights are—they are vested in the brands of a product that is legal and legitimate in this country. Until that is not the case, no argument exists. Indeed, dare I suggest that it would be more honest of both Front-Bench teams to ban cigarettes rather than try to cling to the profits that they bring the Exchequer while attempting to deliver feel-good policy?

Will the Minister confirm whether her Department accepts that there will be a financial liability, and if so, what it is? Further, what consultations has her Department had with the Treasury on the matter?

Members have referred to the retail sector. The impact assessment produced in 2014 said that retailers would benefit from reduced transaction times, creating a net gain of £43 million. *[Interruption.]* My hon. Friend the Member for Shipley may well sound confused, but he will be even more confused in a minute. We now learn from the latest impact assessment that retailers will in fact suffer increased transaction times. How did such a massive miscalculation come about, and how can we even trust the current assessment? Indeed, the new assessment shows that every newsagent and convenience store will lose approximately £2,700, based on the assumption of a 5% margin, before any reduced turnover from lower footfall is factored in. Does the Minister not feel it unreasonable that such businesses should have to recalibrate by 2016?

**Philip Davies:** Unlike most people who pontificate about these matters, I have actually worked on a cigarette kiosk in a supermarket. I can tell my hon. Friend that when people come and ask for a brand of cigarette and the person on the kiosk says, “I’ve no idea what they are”, they say, “It’s the purple one over there”. If we have plain cigarette packaging, it will take for ever and a day for anyone to be served at the till. That is without even taking into account the fact that packets are now all behind shutters—why on earth we need plain packaging for a product behind shutters, Lord only knows.

**Nick de Bois:** Indeed, there are hidden training and retraining costs that need to be identified, as the Association of Convenience Stores has stated. My hon. Friend makes his point well—let us not forget that we have put on those same stores a cost of anywhere between £700 and £2,000 to cover up the cigarettes that will now be in plain packaging. Is this the party of small business, or is it the party of small business regulation?

**Alex Cunningham:** Will the hon. Gentleman give small retailers a bit more credit for their ability to diversify? Thousands and thousands of post offices have closed over the years, many of them in retail shops, and what has happened? Most of those shops have survived, because they have learned to diversify. Surely they can diversify in this case as well.

**Nick de Bois:** I am grateful to the hon. Gentleman, who reminds me of two things. First, a lot of post offices were closed under the last Government, including two in my constituency. Secondly, his more serious point is absolutely valid. He, too, misunderstands me. I apologise if I have not made this clear, but diversification is key. As a man who started his own business and has run it for 25 years, I know that one needs time and certainty to be able to diversify. The argument that I am leading up to is that we need to provide time beyond 2016.

**Alex Cunningham** *rose*—

**Nick de Bois:** I am conscious that other Members want to speak, but I will take the hon. Gentleman's intervention.

**Alex Cunningham:** The hon. Gentleman knows full well that this issue has been debated year on year on year. If the tobacco companies, the retailers and everybody else are not prepared for what is going to become law, hopefully within a year or so, I do not know what the future holds for any of them.

**Nick de Bois:** I am sure that any regular observer of the House of Commons knows that one thing we do is a lot of debating and talking, and rarely do things come to fruition as we wish. As someone who ran a business, I certainly would never have expected to see this measure before this House this late in the Parliament, announced in an Adjournment debate without the benefit of a full debate. So the hon. Gentleman's point, although not unreasonable in general, shows he has rather high expectations of his colleagues in the House if he expects them to demonstrate such foresight.

We allowed small shops three years to implement the display ban—this builds on the hon. Gentleman's point—so with the legislation before us today, we are disadvantaging the smaller businesses, because the larger ones will be able to adjust more easily.

Let me turn to illicit sales, which I think, frankly, we brushed over. The impact assessment attempts to address this issue, but it does not engender any confidence that the Government have a grip on this issue or are introducing this legislation with confidence that they can manage the problem. Even HMRC, in the summary that the Minister urged me to read, says—this is in a summary of its lukewarm assessments—only that it has a “moderate degree of confidence in the accuracy”

of the statements it has made. Does she believe, when effectively introducing price as the only distinguishing factor in tobacco sales from here on in, that when it comes to assessing increases in illicit sales with price as the differentiator, the fact that HMRC has a “moderate degree of confidence in the accuracy”

of the statements it has made is a good enough basis for progressing; or should we collate more evidence from the one country that has introduced plain packaging? I would argue that the amount of time that has been available to examine that evidence does not make it statistically or scientifically valid enough yet.

HMRC has stated that the impact of plain packaging on the illicit market would

“prompt some changes to the mechanics of the fraud and composition of the illicit market.”

By delaying implementation, we could help HMRC to prepare better to mitigate the future contraband losses to the Exchequer—which, let us not forget, are currently at £3 billion per annum. Even HMRC acknowledges that there is an increase in the likelihood of small-scale local retailers becoming unknowingly involved in the sale of counterfeit tobacco, but HMRC said that it was “unable to provide any greater level of certainty at present”.

For the benefit of the Minister, I have been out with people investigating counterfeit sales from people's homes, across the internet, outside flats and in shops. It is a rife industry and one that is set to get bigger.

Does the Minister agree with that assessment about more time being given for HMRC? Can she also explain why requirements for authenticating products that are duty-paid have not been required as part of the regulations? Even in this country, we have the technology—we certainly have the motivation—to deal with the consequences of illicit tobacco and lost Exchequer revenue. Does she not agree that if we can put those measures in place first, we have more chance of mitigating both health concerns and Exchequer fraud?

**Debbie Abrahams:** Is not the experience of Australia that illicit sales have not increased, as anticipated? HMRC suggests that since 2001, the levels of illicit sales have gone down to 10%.

**Nick de Bois:** No, I disagree with the hon. Lady's assumption about what is happening in the UK. In fact, half the problem with the illicit sales is knowing exactly what is going on.

Let me turn to the much-vaunted Australian figures and the exchange with the shadow Minister, when she challenged the statistics that were being quoted. I have delved into the statistics about how smoking rates among 12 to 17-year-olds have developed in four states in Australia. In fact, it is important to note that since the introduction of plain packaging in the states of New South Wales, South Australia and Western Australia—which is only three states; I have forgotten the fourth state—an increase has been shown in that age group. Rather than attack the authenticity of those figures, I checked the source. They are from the national drugs strategy household survey 2013, which was ordered and authored by the Australian Institute of Health and Welfare, which is a Government agency. Before anyone rushes to make a challenge, may I make it clear that I have quoted directly from what I have seen? Those

statistics are on the margins, granted, but the key point is that it is impossible to draw valid conclusions in the short time since plain packaging has been introduced in Australia.

**Luciana Berger** *rose*—

**Nick de Bois:** If I may, I shall draw my remarks to a close.

Overall, given the threat to the public purse, statistics that are at best vague and inconclusive and the threat to small businesses, it makes sense to aim for a date of 2020 so that litigation can be settled and so that the legal position can be established. In that way, the public purse will not be subject to billions in claims because we feel that it is necessary to rush this on to the statute book before a general election.

5.16 pm

**Kevin Barron:** I support the regulations, and I hope that Members in Committee and in the House do so too. In evidence given to the Government on 9 August 2012 in the consultation on the future of tobacco control, Philip Morris International stated that

“as an integral part of the product, packaging is an important means of differentiating brands and in that sense is a means of communicating to consumers about what brands are on sale and in particular the goodwill associated with our trademarks, indicating brand value and quality. Placing trademarks on packaged goods is, thus, at the heart of commercial expression.”

That argument could be used for everything that has been done in the past 20 or 30 years against tobacco—the fact that we stopped advertising on bill posters and stopped brand names on shop fronts. We have stopped it all over the place for reasons of public health. That is why I support the measure. Philip Morris International will convince people of what the tobacco industry is about. It is about brands—people know what the purple one is—and this is about branding.

I know that other Members wish to speak, so I shall move on. Sir Roger, you said that you had been contacted and had received correspondence. We all have. I have with me a copy of *The House* magazine. We do not normally use such material, but there is a wraparound cover by the tobacco industry, which says:

“Plain packaging on top of a display ban is simply unnecessary”.

It was not very long ago that the industry was telling us that a display ban was unnecessary. *[Interruption.]* Members may say that it was, but I disagree. I was heavily involved in the debate on the display ban, which was opposed by the tobacco industry. In 2011, like other hon. Members—the hon. Member for Enfield North has encountered this organisation—I came across the National Federation of Retail Newsagents. The hon. Gentleman said that he did not send a copy of his letter to the Opposition, but I have received it anyway. His hon. Friends are against the legislation, or want to slow it down and look at the legal costs.

**Nick de Bois:** I do not think that that is strictly accurate, although the right hon. Gentleman would not necessarily know that. *[Interruption.]* No, I sent it to selected MPs, including Members on both sides of the House.

**Kevin Barron:** I will withdraw that little bit.

The advert ties in with the display ban, and the House ought to know what that organisation was up to in 2011. I went to the annual shareholders meeting of British American Tobacco that year, with Action on Smoking and Health—an organisation I have worked alongside on tobacco legislation in the House for more than 20 years. I went to the meeting because rumour had it that the national federation was taking tobacco money. Some MPs opposed the display ban. Indeed, the hon. Member for Enfield North wrote to colleagues to get them to sign a petition against it. I shall quickly read a couple of headlines. On Wednesday 27 April, *The Guardian* said: “BAT denies allegations that it funded anti-tobacco ban lobby.” On the following day, 28 April, *The Guardian* ran the following headline: “BAT admits bankrolling newsagents’ tobacco campaign”.

Through the organisation that the hon. Member for Enfield North mentioned, I exposed in 2011 exactly what the tobacco company was up to. I have no doubt that many of the missives that we have had screaming about what was going to happen to small retail were close to tobacco, even if they were not funded by it, as that campaign was.

**Philip Davies:** The right hon. Gentleman talks about funding and lobbying. Does he think that it is absolutely fine for ASH to be funded by the Government, and to use its funding to lobby the Government for things?

**Kevin Barron:** Yes, I do. I believe that that is right and proper. I know that some Government Members have different views on that, but the influence that ASH has had in the House over the past 20 or 30 years has probably saved tens of thousands of lives.

**Jane Ellison:** May I clarify for the Committee the fact that it is not the case that the Government fund ASH to do as my hon. Friend the Member for Shipley has suggested? That has been the subject of several parliamentary questions asked by my hon. Friend, to which I have supplied detailed answers.

**Kevin Barron:** I do not want to delay the Committee too long, so I will finish on this point. I have in front of me the evidence given by the UK Centre for Tobacco and Alcohol Studies at Nottingham university to the Cyril Chantler review. The evidence contains images—obviously, I cannot read them out—taken from television programmes and one YouTube video, where packets of cigarettes are shown on our screens in such a way as to make it possible for people to identify the brand that they are looking at, even though advertising cigarettes on television has not been allowed for decades. There are two examples from “Coronation Street”, which show the open corner shop displays. There is one example from one of my favourite programmes, the “Gavin and Stacey Christmas Special”, which shows a packet of fags on a table in the pub. There are others from “Of the Night (Bastille)” on YouTube, and from the film “Slumdog Millionaire”. For decades, there has been debate, particularly in Hollywood but also in this country, about product placement in film and popular media. Why? Because it sells tobacco. People see an image of a certain packet of

[Kevin Barron]

cigarettes on their televisions, although advertising tobacco has not been allowed for decades. That is why I support the legislation.

When we try to legislate, we often come across all sorts of issues about the legalities and the costs. I assume that some parliamentary legal people have looked at this legislation. We have heard the argument that we should wait and see what happens in Australia. I heard that argument when I promoted a private Member's Bill in 1993-94 to ban tobacco advertising in this country. The same arguments were raised over and over again. We know what tobacco does. Not only does it damage the quality of life of many people, but it shortens the lives of hundreds of thousands of our fellow citizens. If that was happening in any other aspect of our lives—on our roads, or in our armed services—we would want to do something about it. We can do something about it today by supporting the regulations.

**Several hon. Members** *rose*—

**The Chair:** Order. There are still four hon. Members who wish to speak, and we have a limited amount of time. I have no power to impose time limits on speeches in Committee, unfortunately, but five minutes per person and no more sounds good.

While I am on my feet, I feel obliged to say that Mr Chope and Mr Davies, who both took the trouble to attend the Committee, indicated that they wished to speak. However, sadly, as is so often the case in this House, there is a conflict with business on the Floor of the House, which they also wish to attend. I think that it is only fair that that is placed on the record.

5.24 pm

**Paul Burstow** (Sutton and Cheam) (LD): It is a pleasure to serve under your chairmanship, Sir Roger. I will be brief, because many of the arguments in support of the regulations becoming law at the earliest opportunity have already been advanced. I should make it clear at the outset that I strongly support the work of ASH, and that I chair the all-party parliamentary group on smoking and health. My main reason for supporting the regulations is that smoking is a childhood addiction. If we look at the facts and statistics, we see that two thirds of people who smoke started by the age of 18, many by 16. One thing that seduces young people into smoking is the branding of the packaging, which is not just hidden behind displays in shops; it is out there in the public domain, where people smoke. For that reason, I believe that the regulations will make a small contribution to the onward march of reducing the prevalence of smoking in this country.

It is worth mentioning Sir Cyril Chantler's review of all the peer-reviewed and randomised control trial work that has been done. For those who suggest that there is no evidence, I urge them, in their preparations, to read that report afresh, because they will then understand that the matter has been the subject of very detailed assessment by many people, as well as Sir Cyril's very helpful report.

**Neil Carmichael** *rose*—

**Paul Burstow:** This is going to be the only intervention I accept, so that we can hear other contributions.

**Neil Carmichael:** I am grateful. Does my right hon. Friend agree that the recent reduction of the exposure to branding has been a good thing that has contributed to a reduction in cigarette smoking? Tackling the brands themselves is the logical next step.

**Paul Burstow:** Absolutely. One of the most laughable arguments I have heard about tobacco control is the proposition that we should not continue with any further tobacco control measures on the basis that the trend is going down, so we should just let it continue on its own. The idea that the interventions, cumulatively, have not affected behaviour is an extraordinary claim for anyone to make. It beggars belief that it was made in this Committee without any suggestion of evidence to support it.

**Luciana Berger:** I sought to intervene previously because it is worth putting on the record the comparison with Australia, which has introduced a similar measure. The prevalence levels in this country are around 19%, whereas since the introduction of standardised tobacco packaging, the prevalence levels in Australia have gone down to about 12.8%.

**Paul Burstow:** Yes, absolutely. Looking at the Australian evidence is important. We must look at it in terms of the illicit trade, where the evidence suggests that it has not had an impact, and in terms of sales. We have Government figures from Australia and independent evaluation, both of which confirm a downward trend in the first year. Other studies show that it has had an impact on behaviour as well.

Reference has been made to threats of litigation. The tobacco industry launched legal action in Australia and was unsuccessful—there has been an award of costs against the industry—but it will of course continue through every possible means, including its proxies, allies, and those that it funds, to pursue the idea that there are huge uncertainties and legal costs of which the Government should be fearful.

The Government have been remarkably careful, thoughtful and thorough in how they have gone about framing the basis for taking a legitimate legal decision on standardised packaging. We have a clear and cogent set of arguments in the impact assessment and the other paperwork before us, and we have the compelling fact that every year 100,000 people die every year who could have had their lives saved if we did more to prevent people from starting to smoke in the first place. The regulations are another step in ensuring that we do not give to the tobacco industry the ability to seduce young people into smoking. For that reason, I support them.

**Several hon. Members** *rose*—

**The Chair:** Order. I call Dame Tessa Jowell.

5.29 pm

**Dame Tessa Jowell** (Dulwich and West Norwood) (Lab): I shall be brief. The context for the regulations, which I strongly support, is that smoking is the greatest cause of preventable death and the single greatest driver of health inequality. No single measure will reduce the rate at which adults smoke or young people take up

smoking, but as other Members have indicated, it is essential that we have an evidence-based and cumulative range of measures that are applied on the basis of the evidence. I commend the way in which the Government have sought the evidence in support of the regulations, particularly the distinguished contribution of Sir Cyril Chantler.

I ask the sceptics to answer this question: if the tobacco companies invest as much money as they do in glamorising cigarette packaging, why on earth do the sceptics presume that glamorising and promotion has no effect either on the rate at which young people take up smoking or on the rate at which established smokers continue to smoke?

I commend the regulations, which make a further contribution to the prevention of avoidable deaths from lung cancer and other cancers. They will also make an important contribution to reducing the number of young people who might otherwise take up what they believe to be an innocent and glamorous accessory.

5.30 pm

**Dr Wollaston:** We have already heard that big tobacco is killing half its customers and contributing hugely to health inequalities, as the right hon. Member for Dulwich and West Norwood pointed out. I make my contribution to our debate as someone who has been there, sitting with hundreds and hundreds of my patients over the years. As a clinician, I have witnessed not just deaths but maiming—people who have had amputations because of gangrene or who are living with blindness. I have had patients who have been tied for years to oxygen cylinders, gasping their last.

There is one message that all those people want to pass on, which is that they do not want those things to happen to someone else. The Committee has an opportunity to help us achieve the continuing decline in smoking rates that we see, for example, in Australia by bringing in these sensible measures.

The saddest argument that I have heard today is that the Government should not take these measures because we might be sued. Can we imagine that being said about any other pressing health concern? Here is an industry killing half of its customers—our constituents—and we are hearing that the Government should take an entirely supine position because they might be sued. I simply ask this question: if the measures were not going to make a difference to the number of people taking up smoking, would we even be here discussing that idea? If the industry was not sure that the measures would hit it in its profits margins, it would not be threatening action, and the measures would be pointless. The fact that the industry opposes the measures means, beyond anything else, that the Minister should keep right on.

I add my congratulations to those expressed by other Members to Sir Cyril Chantler on his thoughtful review, and to the Minister on her thoughtful and measured approach to removing the last legal form of advertising for the tobacco industry.

5.32 pm

**Mr Sutcliffe:** Thank you, Sir Roger, for giving me the opportunity to say a few words. I have never smoked, I do not like smoking and if a smoking ban was proposed tomorrow I would vote for it. As a former Sports

Minister I want to see young people being physically fit and active. That is the best way for them to live longer lives. Those of us arguing against the measures are characterised by some as being pro the tobacco industry. I assure the Committee that I am not.

I am a former print worker, however, and have been involved in the printing industry. Colleagues say that the industry must have seen the measures coming and has had plenty of time to diversify, but I am afraid that that is not how the world of work actually works. Printers have to vie for business. Colleagues have said that cigarette packaging is less than 5% of the business. Well, it might be, but in Bradford, that means 400 jobs, in a community that needs those jobs.

It is clear that both Front-Bench teams are going to support the measures. I have no problem with that or with the motivation for it, but the measures will have an impact on people's lives and jobs. As I say, if the Government were to bring forward a tobacco ban, I would vote for it, but they are not going to, because the tax revenue they receive from tobacco smokers is quite high.

All I ask is for some support during the implementation of the measures. It takes time in the printing industry, which is very competitive, to offer alternative proposals, even if those are for standardised packaging. It will take at least 18 months to two years for the designs to be made and the buyers and marketers to go out to try to change people's opinions. The people whose opinions they will have to try to change are those in the tobacco industry. The industry is not going to take any steps to change things when the measures have not gone through—it has not taken any steps in the past two years even though it recognised they are going to go through. It will still take two years for printers.

It is easy for people to say, "What's 400 jobs?" In my constituency, 400 jobs is a lot in the current environment. I hope the Minister and the shadow Minister will take a little time on it. We know the politics of the measure and how long it has taken to get where we are today, but it will have an impact. The display ban had a time scale for implementation by small and medium-sized distributors.

I know the Minister wants to get the measure through. I am sorry that we are in Committee—it should have been done on the Floor of the House, so that we all had the opportunity to say what needs to be said. That is not the case, but before the measure comes into force, think about those 400 jobs in Bradford and elsewhere in the country, because they are important to the people who work in the sector.

5.35 pm

**Dame Angela Watkinson** (Hornchurch and Upminster) (Con): I draw the Committee's attention to my entry in the Register of Members' Financial Interests. I speak as a lifelong non-smoker. That is my choice, and it is a choice that is open to everyone. There is no dispute on any side of the argument about the health impacts of smoking. That is not the issue. Everybody knows it is bad for them. Smokers know. I have spoken to countless smokers over the past month. I never miss an opportunity to ask them what difference it will make to their tobacco purchasing and smoking habits if standardised packaging is introduced, and they have all said, "Absolutely none." I have not been able to find one smoker who says they will be influenced by standardised packaging.

[*Dame Angela Watkinson*]

Of course we do not want children to smoke. It is parents' responsibility to know whether their children are smoking and to warn them about the health impacts. If their children have enough money to buy cigarettes, they should know what they are spending it on. I have had a number of e-mails and letters from owners of small shops in my constituency—corner shops, small newsagents and tobacconists—who are extremely worried about the impact of the measure on the viability of their businesses.

I will concentrate my remarks. The measure, well-intentioned but completely misguided, will be good for criminals and will encourage illicit trade. I will point out the specific flaw in the regulations that risks making life easier for the criminals who illegally smuggle tobacco into the United Kingdom. We all know that there is no quality control on illicit tobacco—all sorts of noxious additives such as sawdust and rat droppings find their way into it.

In the UK market, the bottom of each cigarette pack or hand-rolling tobacco pouch is printed with a unique Codentify code and a corresponding dot code that can be scanned by a machine. The Codentify code is not currently required by law; instead, the manufacturers have agreed to implement it as part of a memorandum of understanding with Her Majesty's Revenue and Customs. Codentify allows manufacturers and customs officials to trace an individual pack of tobacco backwards through the supply chain to its place and time of manufacturer, enabling us to identify from where in the downstream supply chain legitimate tobacco products are being smuggled. It has been used repeatedly to assist HMRC and other law enforcement agencies to find and take action against those who smuggle our products.

I sincerely believe that this well intentioned legislation will not work. It will not affect smokers, who will disregard it just like all the other measures that have been introduced. As for improving health, I believe that it will not achieve its objective.

5.39 pm

**Jane Ellison:** I will try to get through all the points raised, because that will help the Committee. I will start with Codentify, as it was raised by my hon. Friend the Member for Hornchurch and Upminster a moment ago, as well as by my hon. Friend the Member for Christchurch. For the benefit of the Committee, Codentify is a voluntary security feature developed and controlled by the tobacco industry. HMRC is starting to make use of that system to assist in identifying illicit tobacco. We are working across Government to ensure that anti-counterfeit systems that are useful to HMRC and other enforcement agencies now and in the future can continue to feature on standardised packs, which will require such systems to be put on a statutory footing. That has not been overlooked; we are aware of it and we have been talking—

**Dame Angela Watkinson:** Will the Minister give way?

**Jane Ellison:** I am sorry, but I will use my time to go through the great many points raised in the debate. To clarify the point on ASH funding, although my hon. Friend

the Member for Shipley has left, as I said, we provide a financial grant to ASH, but that is on the clear condition that such money is not spent on lobbying.

On the packaging concerns raised by the hon. Member for Bradford South—that diversification of production will take three to four years—all of us are sympathetic to the issue of jobs, and, as I am originally from Bradford, I am particularly sympathetic to his point. The print industry has known for some time that standardised packaging has been under discussion—the issue has not been recently sprung on it, so it has had a chance to consider how to respond.

My hon. Friend the Member for Stroud essentially asked about down trading. There is a risk that smokers might down-trade to cheaper tobacco brands, but significant evidence of that has not been seen in Australia. We accept that some down trading may occur, especially in the long term, as tobacco in standardised packaging becomes less desirable than when it was branded, and therefore the amount that consumers are willing to pay for such products might reduce. However, any resultant price fall may be counteracted through taxation measures, which is the key factor in ensuring that tobacco products remain appropriately priced.

My hon. Friend the Member for Enfield North made a number of points. He mentioned the need to wait for more evidence. The Australia point is often made, but evidence continues to be published, which we consider carefully. Sir Cyril Chantler included that in his review and alluded to it throughout.

My hon. Friend asked about illicit whites. HMRC predicts in its report that, following current trends, illicit white cigarettes are likely to continue to grow as a proportion of the overall illicit market, but it also made it clear that there is no evidence that standardised packaging will have significant impact on the overall size of the illicit market. That indicates that any increase in illicit whites is likely to be at the expense of other types of illicit tobacco traded. Again, I put on record my admiration for the work that HMRC has done in the past decade in reducing that market overall.

My hon. Friend asked whether we had considered a particular point of European human rights law. The answer is yes. The Government, in coming to a decision to proceed with the regulations, gave careful consideration to all the legal issues, including the implications of that and other case law.

My hon. Friend asked why legal costs are not accounted for in the impact assessment. It is our view that the policy is defensible in the courts. The Government have given careful and measured consideration to all legal aspects of the policy. We know that the tobacco companies have made it clear that they intend to bring legal challenges to the regulations, but we intend to defend the policy robustly and we have powerful arguments in our favour.

My hon. Friend also asked why we are not waiting for the conclusion of legal cases. Every country's circumstances, legal framework and legislative proposals are different. The various international proceedings against Australia's plain packaging legislation are expected to take several years to resolve. If all countries were to wait for the results of all those actions against Australia, that would very much play to the industry's delaying tactics in terms of these measures coming forward. It is for the

UK Governments to set the UK's public health agenda. The sooner we act, the sooner health benefits will accrue.

My hon. Friend raised concerns about increased transaction times for retailers. We have seen in Australia that retail staff adjust quickly and that any increases in serving times are short lived, lasting no more than a few weeks. Nevertheless, we carefully considered the responses to the 2014 consultation. The transaction times quoted in the impact assessment were amended to take into account the evidence provided in those responses. That concern was also raised by my hon. Friend the Member for Shipley.

The shadow Minister, the hon. Member for Liverpool, Wavertree, made a number of points. On the coming-into-force date, to minimise the impact on business the regulations will be implemented at the same time as the European directive is transposed, which is May 2016, so that the industry does not have to undergo two changes to its manufacturing processes. The hon. Lady also asked about the sell-through period. Previous changes to tobacco packaging, such as the 2008 requirement for picture warnings, have shown that 12 months to sell through old stock is appropriate. In reality, most stock sells more quickly than in one year.

Guidance will be made available to local authority trading standards officers, or in the case of Northern Ireland environmental health officers. It will be developed with the relevant bodies responsible and made publicly available before the regulations come into force. The guidance can be used by the general public, retailers, UK Border Force and anyone else who needs to understand the situation.

My hon. Friend the Member for Shipley, who is no longer in his place, said that there was no point to further measures because smoking rates are reducing anyway. We have seen from other countries, however, that smoking rates can go up as well as down, such as in France and New York when Government relaxed tobacco control measures. That goes to the point made by the right hon. Member for Sutton and Cheam: it is not a given that if one does nothing, rates will continue to fall. It is important to keep up the momentum to protect more people from the burden of disease that tobacco brings.

My hon. Friend the Member for Shipley made various points to do with counterfeiting and China. Counterfeiting issues anywhere in the world are included in the wider consideration of policy, but I confirm that the Department of Health has been working closely with the Home Office on the policy and the potential impact on the illicit trade. I referred a number of times to HMRC's detailed assessment of the potential effect of standardised packaging on the market and the fact that it saw no evidence to suggest that there would be a significant impact on its overall size. Furthermore, the Trading Standards Institute, which has also been mentioned in Committee and has extensive experience of tackling illicit tobacco at the retail level, stated in evidence that it "is aware that the tobacco industry regularly argues against standardised packaging for the reason that it will inevitably lead to an increase in the illicit tobacco trade. The Institute does not regard this as a valid argument."

A point was made about why we need standard packaging if the display ban already covers packs in shops. Sir Cyril considered that in his report, noting

that the ending of open display of tobacco in shops will not affect the exposure of young people to cigarette brand imagery at other times, such as when friends and family members who smoke take out their cigarette packets and leave them lying around. I am glad that someone in the debate mentioned health inequalities—the Government and all parts of the health system have a legal duty to reduce health inequalities and, because so many more children who are the children of smokers take up smoking, smoking is ever more concentrated in deprived communities. There is a significant issue of health inequality and the display ban is not relevant to display of cigarette packets in the family and social circle.

The right hon. Member for Birkenhead, who is no longer in his place, asked about the consultation responses. In 2012, we obviously had a large consultation response. In early 2013, the Department had a series of meetings with tobacco companies and the wider industry to gain further information on the impact of the policies. He also asked whether we had discussed the impact on the industry and associated industries.

My hon. Friend the Member for Enfield North asked why we do not ban tobacco altogether. That is not feasible, because there are more than 7 million smokers in England alone and those people are addicted to tobacco. Banning tobacco would criminalise the use of a product that millions of people are addicted to. We want the market to reduce and young people not to take up smoking in the first place, and to help people who smoke to quit.

The evidence from Australia, interestingly, is that there is great support for the policy we are discussing even among smokers, because so many want to quit. The evidence tells us that standardised packaging is likely to help and, as I said at the start of the debate when I introduced the regulations, that will bear down on the number of people who take up smoking in the first place, reduce the considerable burden of disease brought about by tobacco and bring one step closer the prospect of the first smoke-free generation—something I hope the whole House will unite behind. Again, I commend the regulations to the Committee.

**The Chair:** The Question is that the Committee has considered the draft regulations. As many as are of that opinion say aye.

**Hon. Members:** Aye.

**The Chair:** To the contrary, no.

**Nick de Bois:** No.

**The Chair:** It is apparent that the hon. Gentleman is in a minority of one, but if he wishes it to be a matter of record, I will call a Division.

**Nick de Bois:** No, I will accept my lot, Sir Roger.

**The Chair:** I put it on record that Mr de Bois objected.  
*Question put and agreed to.*  
*Resolved,*

That the Committee has considered the draft Standardised Packaging of Tobacco Products Regulations 2015.

5.50 pm

*Committee rose.*

