Health warnings on tobacco packages:
Summary of evidence and legal challenges

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EXECUTIVE SUMMARY

To date, more than 17 countries have passed legislation requiring large pictorial health warnings on cigarette packages. Dozens of other jurisdictions are currently preparing similar legislation in response to the international labelling regulations under Article 11 of the World Health Organization Framework Convention on Tobacco Control. The evidence on effective packaging and labelling practices has grown rapidly over the past decade to keep pace with these regulatory developments. A consistent pattern of findings has emerged from this body of research:

• Package health warnings are among the most prominent and cost-effective health communications available.
• Health warnings have high awareness and visibility among non-smokers and youth.
• Obscure text warnings have little impact.
• Large, pictorial warnings can increase health knowledge, motivation to quit, and cessation behaviour.
• Pictorial warnings are especially important for reaching low-literacy smokers and children.
• Messages that depict health risks in a vivid and emotionally arousing manner are most effective.
• “Graphic” information should be accompanied by supportive cessation information.
• There are no adverse effects in response to pictorial warnings.
• Large pictorial warnings are credible and have high levels of public support.

This report also includes a review of legal challenges to health warning regulations in Canada and the European Union. In both jurisdictions, national courts have ruled against tobacco manufacturers and have upheld comprehensive labelling regulations, including requirements for large pictorial health warnings on packages.
1. BACKGROUND: TOBACCO PACKAGING

Packaging is an important component in the overall marketing strategy of consumer goods. Packaging helps to establish brand identity in competitive markets and serves as an effective form of promotion both at the point of purchase and while the product is being used. Packaging is particularly important for consumer products such as cigarettes, which have a high degree of social visibility. Unlike many other consumer products, cigarette packages are displayed each time the product is used and are often left in public view between uses. Cigarette packages also serve as an important link to other forms of tobacco advertising. Package designs help to reinforce brand imagery that is communicated through other media, and play a central role in point of purchase marketing, which now accounts for a majority of the industry’s promotional spending in Canada and the US.

Tobacco Industry Quotes about the importance of packages

**Brown & Williamson (1985)**

"... if you smoke, a cigarette pack is one of the few things you use regularly that makes a statement about you. A cigarette pack is the only thing you take out of your pocket 20 times a day and lay out for everyone to see. That's a lot different than buying your soap powder in generic packaging."

**British American Tobacco (1978)**

"One of every two smokers is not able to distinguish in blind (masked) tests between similar cigarettes ...for most smokers and the decisive group of new, younger smokers, the consumer’s choice is dictated more by psychological, image factors than by relatively minor differences in smoking characteristics."

**Philip Morris (1984)**

"Our final communication vehicle with our smoker is the pack itself. In the absence of any other marketing messages, our packaging...is the sole communicator of our brand essence. Put another way—when you don’t have anything else—our packaging is our marketing."
2. HEALTH WARNINGS: EVIDENCE

This section provides a review of the scientific literature and research on health warning labels. The section begins with a review of general evidence on health communications, followed by evidence specifically related to tobacco warning labels on packages.

2.1 The use of pictorial information in health communications

A wide variety of research has clearly demonstrated the effectiveness of using pictures and imagery in health communications.12,13,14,15,16

- Warnings with pictures are significantly more likely to draw attention and result in greater information processing.
- Pictures improve memory for the accompanying text and encourage individuals to imagine health consequences.
- Health warnings with pictures are also more likely to be accessed when an individual is making relevant judgments and decisions.

2.2 The use of symbols in health communications

The use of pictorial symbols is a common and effective feature of health warnings for a wide variety of consumer products.17

- Symbols allow consumers to avoid hazards in their environment because they attract attention.18,19
- Symbols act as reminders to perform necessary safety behavior by cueing existing knowledge within memory.20
- The globally harmonized system (GHS) of classification and labelling of hazardous chemicals (GHS) uses the skull and crossbones as the universal symbol for toxic substances (see right).21
• Widely recognized symbols, such as a skull, have been found to be especially effective in diverse populations, including among individuals with low literacy and education.22

• In a recent study, more children were able to recognize the skull symbol than any other hazard symbol.23

• To date, several countries have incorporated symbols in their cigarette health warnings, including Venezuela (see Table 1).

2.3 The use of pictorial health warnings on cigarette packages: International Practices

At present, 17 countries have either implemented or have committed to implementing large pictorial warnings on tobacco packages. Dozens of other countries are currently preparing similar regulations.

Table 1. Examples of pictorial warnings implemented throughout the world
2.4 Evidence on the effectiveness of pictorial health warnings on tobacco packages

Evidence supporting the increased effectiveness of pictorial warning labels derives from three areas:

- **Consumer testing and market research**

  Extensive focus group testing and market-research commissioned by government health agencies highlights the importance of using pictures in package health warnings. This research consistently demonstrates that health warnings with pictures are rated by smokers and non-smokers as more effective and associated with greater impact than text-only warnings. The following includes summary statements from several prominent sources.\textsuperscript{24,25}

### Summary of Research Commissioned by Health Canada Since 2000

“The picture was generally the first thing people looked at and related to. It determined the strength of the warning’s emotional impact and noticeability. For many participants, the picture played the key role in understanding the message, and tended to override the meaning conveyed by the words in the headline. Therefore, those warnings with a clear, simple and effective headline to support or complement the emotionally strong visual were the ones that consistently generated positive and almost enthusiastic feedback from participants.”

Executive Summary, p.4\textsuperscript{26}

### Summary of Research Commissioned by the Australian Department of Health

“The graphic packs were more informative about health effects and more effective in general in conveying health information regarding the contents of cigarettes and cigarette smoke than were the “text only” alternatives. They were also more likely to elicit an emotional response from smokers.... The graphic packs are more likely to: create impact; attract attention; be confronting and difficult to ignore; make it more difficult for smokers to deflect the health message. Overall, the “text only” packs were not considered as impactful or as effective in conveying the potential negative health consequences of smoking as the graphic pack alternatives.”

Executive Summary, p.5\textsuperscript{27}
### Summary of Research Commissioned by the New Zealand Ministry of Health

“All experience and evidence suggests that a combination of visual and text provides the best possible communication: the visual element to attract attention and telegraph a strong message, the text to expand and provide information.”

Summary, p.14

“Respondents consistently mentioned visuals as being the crucial element—i.e. clear pictorial evidence of the consequences of smoking or the potential gains of quitting.”

Summary, p.6

“By way of a high-level summary of findings, the following key consideration emerged from the research:

- Pictorial messages are likely to have significantly more impact than text-only message.
- The larger the pictorial message, the greater its impact.”

Summary p.6

### Experimental Research

Experimental research on cigarette warnings has also found that picture-based warnings are more likely to be rated as effective versus text-only warnings both as a deterrent for new smokers and a means to increase cessation among current smokers.31,32

### Population-surveys and Impact evaluation

A series of population-based surveys have compared the effectiveness between text and pictorial warnings. To date, surveys have been conducted in Brazil, Thailand, Singapore, Uruguay, Mexico, Canada, New Zealand, Australia, the United Kingdom, and the United States. These findings are consistent with both the experimental and government commissioned research: graphic warnings are more likely to be effective on virtually every outcome that has been evaluated.25,33,34,35,36,37,38,39,40,41,42,43,44,45,46 The following provides a brief summary of the evidence in key areas.
Pictorial warnings are more likely to be noticed and read than text-only warnings, including by non-smokers.

- Health warnings on cigarette packages are among the most prominent sources of health information: more smokers report getting information about the risks of smoking from packages than any other source except television.\(^{47}\)

- Findings from Thailand and elsewhere, indicate that considerable proportions of non-smokers also report awareness and knowledge of package health warnings.\(^{48,49,50}\)

- Pictures help to minimize the “wear-out” of health warnings over time.\(^{41}\)

Pictorial warnings increase awareness and recall of the health effects from tobacco use.

- The impact of warnings on health knowledge depends upon the prominence of warnings: obscure text warnings have little effect, large pictures warnings have the greatest effect.\(^{51,49,52,53}\)

- Pictorial warnings increase how often smokers think about the health effects.\(^{41,54}\)

Health warnings promote cessation behaviour.

- Significant proportions of adult and youth smokers report that large comprehensive warnings have reduced their consumption levels, increased their motivation to quit, and increased the likelihood of remaining abstinent following a quit attempt.\(^{49,34,41,42,43,55,56,57,58,59,60,61,62,63,42,46}\)

Prominent health warnings increase in the use of cessation services.

Research conducted in Brazil, the UK, the Netherlands, and Australia has examined changes in the usage of national telephone “helplines” after the contact information
was included in package health warnings. Each of these studies reports significant increases in call volumes. \(^{62,64,65,66}\) For example, calls to the tollfree smoking cessation helpline in the Netherlands increased more than 3.5 times after the number was printed on the back of one of 14 package warnings.\(^{65}\) Therefore, while it is not possible to precisely quantify the impact of health warnings on smoking prevalence or behaviour, all of the evidence conducted to date suggests that health warnings can promote cessation behaviour and that larger pictorial warnings are most effective in doing so.

**Picture warnings appear to be especially effective among youth.**

- More than 90% of Canadian youth agree that picture warnings on Canadian packages have provided them with important information about the health effects of smoking cigarettes, are accurate, and make smoking seem less attractive.\(^{49}\) Other national surveys of Canadian youth suggest similar levels of support and self-reported impact.\(^{48}\)

- A recent study with Australian school children found that students were more likely to read, attend to, think about, and talk about health warnings after the pictorial warnings were implemented in 2006.\(^{46}\) Experimental and established smokers were more likely to think about quitting and to forgo a cigarette, while intention to smoke was lower among those students who had talked about the warning labels and had forgone cigarettes.

**Graphic, fear-arousing warnings do not cause smokers to “ignore” or “tune-out” the health message.**

- Some smokers report trying to “avoid” large, graphic warnings on cigarette packages. Research has demonstrated that avoidant behaviours and attempts at
thought suppression often have the opposite effect of increasing the presence of the unwanted thoughts.\textsuperscript{67} One study found that smokers who attempted to avoid the warning were nevertheless no less likely to see the warnings, think about them, or engage in cessation behaviour at 3-month follow-up.\textsuperscript{43}

- Preliminary findings from a longitudinal study of the pictorial warnings in Australia also demonstrate a positive association between “avoidant” behaviour and self-reported measures of effectiveness, such as foregoing a cigarette and increases in motivation to quit smoking as a result of the warnings.\textsuperscript{68} In other words, the more they tried to avoid the warnings, the greater the effect.

- In the context of the warning labels, avoidant behaviour might be more reasonably interpreted as a measure of effectiveness. Indeed, if the warnings were ineffective in communicating the threatening consequences of smoking there would be no reason to avoid them.

\textbf{Picture warnings that include “graphic” fear-arousing information are most effective.}

- Research in the field of health communication indicates that messages with emotionally arousing content are more likely to be noticed and processed by smokers.\textsuperscript{69}

- Graphic warnings labels may result in strong emotional reactions among a considerable proportion of smokers.\textsuperscript{43}

- Strong emotional reactions are associated with increases in motivation to quit smoking, thinking about health risks, and engaging in cessation behaviour.\textsuperscript{43}

- There is no evidence that graphic warnings labels decrease the effectiveness of the warnings.
The effectiveness of graphic fear-inducing images is supported by surveys and focus groups with smokers.

- An extensive public consultation was conducted by the UK Department of Health that received more than 20,000 responses. The highest rated warnings were generally those that included the “hardest hitting” messages and images, including graphic pictures of the health effects of smoking (see right).\(^{70}\)

- Research conducted on behalf of the Australian, New Zealand, and Canadian governments yielded similar results:

> “Participants in all groups consistently expected or wanted to be shocked by health warning messages (HWMs), or emotionally affected in some way. Even if the feelings generated were unpleasant ones to tolerate, such as disgust, fear, sadness or worry, the emotional impact of a warning appeared to predict its ability to inform and/or motivate thoughts of quitting. HWMs which worked on emotions rather than on knowledge or beliefs were often acknowledged as effective and noticeable, and actually motivated thinking. When a strong emotion generated by a HWM was supported by factual information, that was the best combination possible.”

Overview of Findings, p.3\(^{26}\)

> “Most participants were moved by the dramatic and scary pictures and messages, such as the woman smoking through a hole in her throat, the sick baby, the cemetery with grieving loved ones, and warnings that depicted the physical and health consequences of smoking, such as the diseased mouth.”

Overall Responses to New Warning Messages, p.5\(^{24}\)
Pictorial health warnings are essential in countries with low literacy and multiple languages.

- Text-only health warnings have little or no effect among those who can not read. This includes illiterate individuals, individuals who may be literate but only in a language other than that used for text warnings, as well as young children.
- Text-only health warnings, therefore, can increase health disparities across socio-economic groups.
- The most effective way to reach low-literacy smokers is to include pictures, which can be universally understood, including by young children.\(^{71,72}\)
- Preliminary evidence suggests that countries with pictorial warnings demonstrate fewer disparities in health knowledge across educational levels.\(^{73}\)

Prominent health warnings have the potential to undermine brand appeal and the impact of package displays at retail outlets.\(^{60,74,75,76,77}\)

- A Quebec Superior Court judge in Canada remarked upon this phenomenon in a ruling regarding the industry’s challenge to pictorial warnings in Canada: “Warnings are effective and undermine tobacco companies’ efforts to use cigarette packages as badges associated with a lifestyle.”\(^{78}\)

Smokers report graphic warnings to be a credible source of information.

- The information included in prominent warnings is rated as very believable and credible by smokers, particularly when the information is attributed to a well-respected Department of Health or a well respected non-governmental authority, such as a cancer society.\(^{79,80}\)
- The levels of credibility do not appear to be associated with the type or design of warning labels: like text-based warnings, smokers report high levels of believability for graphic picture-based warnings.
Graphic pictorial warnings typically receive high levels of public support, even among many smokers.

- Several studies indicate high levels of public support for graphic pictorial warnings.\textsuperscript{43,81}

- In Brazil, a national survey indicated that 76\% of those interviewed approved of the measure, including 73\% of smokers.\textsuperscript{62}

- Two years after the introduction of large pictorial warnings in Uruguay, only 8\% of adult smokers reported they would prefer less health information to appear on packages, whereas 62\% reported they would like more health information on packages.\textsuperscript{82}

- In Canada, more than 90\% of youth agreed that picture warnings on Canadian packages have provided them with important information about the health effects of smoking cigarettes, are accurate, and make smoking seem less attractive.\textsuperscript{49}

- Similar levels of popular support have been observed following the introduction of pictorial warnings in Thailand.\textsuperscript{42,83}

- Although tobacco companies have suggested that pictorial warnings “harass” smokers, research suggests that, overall, smokers welcome more health information on their packages, including information that presents the health consequences of smoking in a vivid, arousing manner.

Larger warnings are significantly more effective than more obscure warnings.

- Smokers are more likely to recall larger warnings, and have been found to equate the size of the warning with the magnitude of the risk.\textsuperscript{49,84,85,86,87,88,89,90,91}

- Smokers also report greater recall for warnings that appear on the front, compared to the side of packages.\textsuperscript{84,87,89,90,91}

- Larger warnings on front are more effective among youth.\textsuperscript{92}
• Features that distinguish the warning messages from the package design, such as bold, contrasting colours, have also been found to increase the salience and recall of warnings.\textsuperscript{93,87,94}
3.0 LEGAL CHALLENGES TO HEALTH WARNING REGULATION

Background

The tobacco industry has vigorously opposed comprehensive tobacco labelling policies, especially in the case of pictorial labels. For example, package warnings were identified by British American Tobacco as one of the key issues facing the company. Protecting the pack design and “neutralizing” the controversy over pack warning labels were among the priorities listed in the document. The same document goes on to state that, “pictorial warnings, and those occupying a major pack face or faces (front and back) or a disproportionately large area of advertising space, should be restricted, as should moves to plain or generic packs. Every effort should be made to protect the integrity of the company’s packs and trade marks”.

Despite this opposition, legal challenges have only been launched in several jurisdictions. The most notable cases have taken place in Canada and the European Union. In both cases, the Courts ultimately upheld legislation on comprehensive warnings with the result that large picture warnings currently appear in both jurisdictions. The challenges to the Canadian warnings are particularly important given that Canada was the first country in the world to implement pictorial warnings, in 2001.

The following provides a summary of the Canadian and European court cases, including specific arguments against health warning regulations and quotes from the judgements.
1. Tobacco manufacturers challenge Canada’s Tobacco Act and large pictorial warnings (2002)

Summary
Canada’s three major tobacco manufacturers took the federal government to court to challenge the federal Tobacco Act, which included comprehensive health warning regulations. On December 15, 2002, the Quebec Superior Court upheld the legislation in its entirety. In its judgment, the Superior Court was strongly critical of tobacco industry marketing practices and concluded that a total ban on tobacco advertising may now be justifiable.

Complainants
Rothmans, Benson & Hedges, Inc., JTI-MacDonald Inc, Imperial Tobacco Limited v. AG of Canada (CANADA Montreal Sup. Ct.)

Complaints
Irreparable Harm: The applicants contended that if they did not obtain interlocutory relief, they will immediately have to incur substantial expenses, on the order of $26 million, to comply with the new regulations, and that in the event that they were later successful they would not be able to recover the economic loss or revert their current packaging practices without incurring further expenses. The applicants had made this argument successfully in the past (RJR-MacDonald (1994)), in the Supreme Court.

Balance of Convenience: It had to be determined which of the two parties would suffer the greatest harm, if the Court denies or grants relief sought pending its decision on the merits. The applicants advanced four arguments referring to:

1) Economic burden:
The duty to comply with the new regulations by the end of December 2000 would impose a financial burden estimated at $28.1 million. If the applicants are successful in the main action, it would be impossible to recover the money, and, they would need to invest large sums of money to revert to the packing used previously. In RJR-
MacDonald (1994) the Supreme Court did not accept this argument, stating that even if the financial burden were substantial, the applicants could easily pass any increase in their expenses to their customers in the form of price increases.

2) The feasibility of printing new warnings:
   The applicants contend that the two firms that produce the current packaging do not have the technology needed to complying with the new requirements. Because the arguments relating to feasibility were strictly economic in nature, it is not a factor on its own, that tips the scales in favour of the applicants.

3) Ineffectiveness of warnings:
   According to the applicants, there is no serious evidence that the warnings have any real impact on tobacco usage. In RJR-MacDonald (1994) the Supreme Court denied this argument, stating that in its view the government had made the regulations in question with the intention of protecting public health and thereby furthering the public good. In the applicants’ submission, it is impossible to argue that the warnings have a positive impact on Canadians’ health.

4) Maintaining the status quo:
   The applicants argue that suspending the regulations is in the public interest. It is argued that the applicants are not arguing that denial of a suspension will be contrary to the public interest, they need show only that granting the orders will not harm the public interest, not that ranting the orders will forward the public interest. In any event, it would be impossible to show such a thing.

Judgment
The Court DISMISSES the application by the applicants for a suspension of the Tobacco Act and upheld the health warning regulations.
2. Tobacco manufacturers appeal judgment upholding Tobacco Act and large pictorial health warnings (2005)

Summary
Following the December 2002 decision of the Quebec Superior Court which upheld the Tobacco Act and its regulations for large pictorial health warnings, the three major Canadian tobacco manufacturers brought their challenge to the Quebec Court of Appeal. In August 2005, the Court of Appeal upheld regulations for large pictorial warnings and virtually all other aspects of the Tobacco Act.

Complainants
JTI-Macdonald Corp., Rothmans, Benson & Hedges Inc and Imperial Tobacco Canada Ltd. v. Attorney General of Canada (Quebec Court of Appeal)

Complaints
Regulations go Beyond Parliamentary authority: The manufacturers argued that that the comprehensive restrictions on advertising and the health warning regulations were “ultra vires”, or beyond the power of the Canadian Parliament.

Freedom of Expression: Manufacturers argued the Tobacco Act and health warning regulations constituted unjustified infringements on freedom of expression as guaranteed in the Canadian Charter of Rights and Freedoms.

Quotes from the Judgment

“The main thrust of the manufacturers’ arguments has been that the regulation at issue constitutes an unjustified infringement on their freedom of expression. This submission is groundless. In requiring the packaging of a tobacco product to feature a warning that manufacturers may attribute to the government, Parliament in no way infringes on the manufacturers' freedom of expression.” [170-171]
“The respondent and the intervener have each convincingly shown the existence of a rational connection between the legislative objective and the nature of the warnings required, as well as the fact that the text and photographs of the warnings required by the regulations are not disproportionately harsh with respect to the legislative objective.” [173]

“…even if all smokers and potential smokers were very well aware of the risks associated with tobacco use, Parliament would still be justified in insisting that they be reminded once again of the harmful health consequences of smoking each time they take a cigarette from their packs.” [196]

3. Tobacco manufacturers appeal judgment upholding Tobacco Act and large pictorial health warnings to Supreme Court of Canada (2007)

Summary:
Canadian tobacco manufacturers brought their appeal of earlier Tobacco Act decision to Canada’s highest court, the Supreme Court of Canada. The Supreme Court upheld the Act regulating the health warning size on tobacco packaging. The court ruled that the Act was a justified infringement of the Canadian Charter of Rights and Freedoms.

Complainants
Canada (Attorney General) v. JTI-Macdonald Corp., Rothmans, Benson & Hedges Inc., Imperial Tobacco Canada Ltd. (2007 SCC 30)

Complaints
Freedom of Expression: The complainants argued that parts of the Tobacco Act and the Tobacco Products Information Regulations violated their freedom of expression under the Charter of Rights and Freedoms.

Judgment
The manufacturers challenge to the Tobacco Act was dismissed. In reaching its decision, the SCC considered the goals of Parliament: to inform the public of the health risks associated with tobacco addiction and to prevent people from developing tobacco addiction. These risks and the suffering associated with tobacco addiction were found to be pressing and substantial. Further, a rational connection between the regulations and Parliament’s objectives was established, the rights were determined to have been minimally impaired, and each provision was found to meet the requirement of proportionality of effects, as the prohibition of speech was of relatively low value compared to the beneficial effects and importance of the provisions to the public.

Key Quotes from Canada’s Supreme Court Ruling

“Parliament’s objective in requiring that a large part of packaging be devoted to a warning is pressing and substantial. It is to inform and remind potential purchasers of the product of the health hazards it entails. This is designed to further Parliament’s larger goal of discouraging tobacco consumption and preventing new smokers from taking up the habit. The importance of warnings is reinforced by the trial judge’s finding that consumers and the general public are not well informed on the dangers of smoking.”

P.57

“The evidence as to the importance and effectiveness of such warnings establishes a rational connection between Parliament’s requirement for warnings and its objectives of reducing the incidence of smoking and of the disease and death it causes. In the course of the previous proceedings dealing with the ban on tobacco advertising, this Court unanimously held that “both parties agree that past studies have shown that health earnings on tobacco product packages do have some effects in terms of increasing public awareness of the dangers of smoking and in reducing the overall incidence of smoking in our society”…A mass of evidence in the intervening years supports this conclusion.”

P.57

“If further evidence were required of the rationality of Parliament’s requirement that warnings occupy 50 percent of product packaging, it is supplied by the manufacturers’ response to the increase from 33 percent to 50 percent of the principal display surfaces. The evidence reveals that they saw the increase as a threat and sought to meet it by devising counter-strategies to minimize the overall impact of the warnings.” P.57

Summary:
New EU legislation (Directive 2001/37/EC) proposed to increase the size of warnings (from 4% to 30% and 40%) and to stipulate in very precise terms in which colours the warnings should be printed. The Directive was challenged in the European Court of Justice by British American Tobacco, Imperial Tobacco and Japan Tobacco International. The European Court of Justice ruled that the Directive was valid, and that it applied only to tobacco products marketed within the European Community.

Complainants
British American Tobacco (Investments) Ltd; Imperial Tobacco Ltd; supported by Japan Tobacco Inc and JT International SA.

Complaints
Principle of proportionality: Manufacturers challenged the validity of the directive on “by reason of infringement of the principle of proportionality.” Under this rule, the European Communities involvement must be limited to what is necessary to achieve the objectives of the Treaties. In other words, the extent of the action (more prominent warning labels) must be in keeping with the aim pursued (to protect consumers from the health risks of smoking.) Also, when various forms of intervention are available to the Union, it must, where the effect is the same, opt for the approach which leaves the greatest freedom to the Member States and individuals.

Infringement of Trade Agreements: The complainants also asked whether the Directive was invalid by reason of infringement of the fundamental right to property (Article 295 EC) and/or Article 20 of the Agreement on the Trade-related Aspects of Intellectual Property Rights (‘the TRIPs Agreement’) as set out in Annex 1 C of the WTO Agreement.

Jurisdictional and Procedural complaints: The complainants also challenged the validity of the directive on the grounds that it infringed the principle of subsidiarity. Subsidiarity is
the principle which states that matters ought to be handled by the smallest (or, the lowest) competent authority. The directive was also challenged on “misuse of powers”, and “by reason of infringement of the obligation to give reasons laid down in Article 253 EC”.

**Applicability to exports-clarification:** Manufacturers sought to clarify whether Article 7 of the Directive was to be construed as applying only to tobacco products marketed within the Community or also to tobacco products packaged within the Community for export to non-member countries.

**Judgment**
The court upheld the validity of Directive 2001/37/EC, including the labelling regulations. The court also ruled that Article 7 of Directive 2001/37 is to be construed as applying only to tobacco products marketed within the European Community.
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