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MEDIA RELEASE

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Full Federal Court hearing set for secret plain pack advice

British American Tobacco Australia (BATA) is pleased a Full Federal Court of Australia will hear it's appeal against the Federal Government's repeated refusal to make public its legal advice on plain packaging.

BATA is hopeful that the Full Federal Court orders the Government to release the key document which it has continually declined to do through the Freedom of Information (FOI) process.

BATA suspects that Minister Roxon hasn't released the legal advice because it's likely to demonstrate her plain packaging laws are flawed.

Even Minister Roxon admitted last week there's no proof plain packaging will work and a number of legal experts have highlighted potential flaws in the Government's legal arguments in the media.

Documents already obtained through the FOI process show Intellectual Property Australia advised the Government plain packaging will impinge on the rights of the trademark owners. Another document shows the Government is planning to spend \$10 plus million dollars in legal fees on plain packaging.

Another FOI document shows that when the Government last looked at plain packaging the Health Department advised it was not a Government policy because of the "major legal and constitutional impediments to such action."

BATA spokesperson, Scott McIntyre said as well as having no proof plain packaging will reduce smoking rates; the Government refuses to guarantee that billions of taxpayers dollars won't be wasted in compensation to the tobacco industry.

"If the Government is so confident it can push ahead with this untested legislation even though they've not done a Regulatory Impact Statement (RIS) or have any proof it will work, why don't they make public their legal advice?" Mr McIntyre said.

"As billions of taxpayers dollars are at risk it's in the public's interest to ensure the Government's legal arguments are released.

"With no proof as its basis this legislation is an experiment which could become very expensive.

"There are so many serious possible consequences, and billions of taxpayer's dollars at stake, it's important the Government comes clean with this legal advice."

BATA did not want to take action through the appeal process but were left with no choice after the Government chose not to act in the spirit of the FOI Act or in the interest of transparency.

A hearing date is yet to be announced by the Federal Court.

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