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**Contribution of Consumer Protection to Sustainable Consumption**

**Submission by Philip Morris International**

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**Written Submission**

Agenda Item 3a.

Contribution of consumer protection to sustainable consumption

**United Nations Conference on Trade and Development**

**Intergovernmental Group of Experts on Consumer Protection Law and Policy 4<sup>th</sup> Session**

**Geneva, Switzerland**

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## **Consumer information policies as a driver for sustainable consumption**

“Empowered and informed consumers can more easily make changes in lifestyle and consumption patterns contributing to the improvement of their health, more sustainable lifestyles and a low carbon economy. Consumers are major contributors to environmental challenges such as climate change, air and water pollution, land use and waste. The protection of the environment and the fight against climate change calls for better information in areas, such as energy and transportation, where informed consumers could make a real difference.”

**EU Consumer Policy strategy 2007-2013 –  
Empowering consumers, enhancing their welfare, effectively protecting them <sup>1</sup>**

### **I. Objective**

This submission addresses how public policy, and more specifically consumer protection policy, can drive sustainable consumption patterns, nudging consumers towards sustainable lifestyles and encouraging companies to adopt business models with increased positive impacts on society.

Production and consumption choices are influenced by policy and regulatory frameworks governing the wider economic system. Well-designed policy frameworks can promote sustainability, using a variety of instruments, incentives, and measures. Empowering consumers through information about the social impacts of products and services, as well as through “better choice” policies, can positively influence behavior change towards products and services that are more sustainable. This strategy can also boost innovation and competition among companies towards more sustainable products.

This submission will analyze three examples where policy interventions were made to increase consumer awareness about the health and environmental impacts of their consumption habits. In two cases nutritional content provided in the labeling of products allowed consumers to make better dietary choices and suppliers to increase their offerings of healthier products. In another case study, energy consumption labelling helped consumers switch to energy efficient products, which also helped spur product

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<sup>1</sup> Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee - EU Consumer Policy strategy 2007-2013 - Empowering consumers, enhancing their welfare, effectively protecting them (para 5.4), available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0099:EN:HTML>

innovation. Finally, this submission will assess how parallels can be drawn for highly regulated products, such as tobacco, including how the use of analogous information policy instruments can encourage consumers to switch to better products.

## II. Sustainable consumption in international law

The concept of sustainable consumption entered the international policy discourse at the United Nations Conference on Environment and Development, held in 1992, whose Agenda 21 states that “the major cause of the continued deterioration of the global environment is the unsustainable pattern of consumption and production, particularly in industrialized countries, which is a matter of grave concern, aggravating poverty and imbalances”.

In 1994, a Symposium focused on Sustainable Consumption and Production Patterns held in Oslo (the Oslo Symposium) defined sustainable consumption as “*the use of goods and services that respond to basic needs and bring a better quality of life, while minimizing the use of natural resources, toxic materials and emissions of waste and pollutants over the life cycle, so as not to jeopardize the needs of future generations* (Emphasis added)”.<sup>2</sup>

From this definition, it is clear that sustainable consumption has two prongs: (i) encouragement of purchases by consumers that are eco-efficient and which pose less risk for the environment; and (ii) encouragement of purchases by consumers that can have a positive impact on their overall health and well-being and lead to a better quality of life. The connection between sustainable development and public health is being increasingly recognized, insofar as there is a clear link between sustainable development and health promotion.<sup>3</sup> There is a growing discourse recognizing the duality of these fields and the importance of integrating health promotion and sustainable development strategies.<sup>4</sup>

In 1999 the United Nations Guidelines on Consumer Protection (UN Guidelines) were revised to include sustainable consumption in the Objectives and General Principles chapter, as well as an entire new chapter on “Promotion of Sustainable Consumption”. The UN Guidelines now encourage the adoption of consumer policies that promote sustainable consumption practices, such as recycling, life cycle thinking

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<sup>2</sup> The Oslo Symposium definition of sustainable consumption is aligned with the definition of sustainable development, as proposed by the Brundtland Commission Report, “Our Common Future”, dated October 1987 (“Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”)

<sup>3</sup> See Kjærgård B<sup>1</sup>, et. al., Health and Sustainability, US National Library of Medicine – National Institutes of Health, available at: <https://www.ncbi.nlm.nih.gov/pubmed/23300191> (last accessed on 29 May 2019).

<sup>4</sup> *Id.*

and eco-products, as well as the development of standards for regulating and verifying environmental claims, among other actions. In the new 2015 version of the UN Guidelines, the chapter on “Promotion of Sustainable Consumption” encourages governments “to create or strengthen effective regulatory mechanisms for the protection of consumers, including aspects of sustainable consumption” (Chapter H) <sup>5</sup>

The UN Guidelines provide a relevant foundation for the design of policies that provide safeguards to the long established consumer right to information, helping consumers make better decisions in terms of sustainable consumption. <sup>6</sup> The UN Guidelines are also important in terms of framing sustainable consumption and calling all members and organizations of society, including “informed consumers”, to play a role in promoting consumption that is environmentally, economically and socially sustainable.<sup>7</sup>

The European Union Consumer Policy Strategy 2007-2013 (*Empowering consumers, enhancing their welfare, effectively protecting them*) is also supportive of providing a higher level of consumer information to achieve changes in life style and consumption that can improve consumer’s health and well-being:

“[e]mpowered and informed consumers can more easily make changes in lifestyle and consumption patterns contributing to the improvement of their health, more sustainable lifestyles and a low carbon economy. Consumers are major contributors to environmental challenges such as climate change, air and water pollution, land use and waste. The protection of the environment

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<sup>5</sup> United Nations Guidelines for Consumer Protection (hereinafter “the UN Guidelines”) at Sections 49 and 58: Section 49 provides as follows: “Sustainable consumption includes meeting the needs of present and future generations for goods and services in ways that are economically, socially and environmentally sustainable.”

<sup>6</sup> See Section 5(e) of the UN Guidelines provides as follows: “Access by consumers to **adequate information to enable them to make informed choices** according to individual wishes and needs.” Section 11(c) of the UN Guidelines provides: “Disclosure and transparency. Businesses should provide **complete, accurate and not misleading information** regarding the goods and services, terms, conditions, applicable fees and final costs **to enable consumers to take informed decisions**. Businesses should ensure easy access to this information, especially to the key terms and conditions, regardless of the means of technology used”. Section 42 encourages Member States to develop general consumer education programs, including information on the impacts of consumer choices and changes in behavior. The aim of these programs should be “**to enable people to act as discriminating consumers, capable of making an informed choice** of goods and services, and conscious of their rights and responsibilities (Emphasis added).”

<sup>7</sup> The UN Guidelines at Section 50. (“Responsibility for sustainable consumption is shared by all members and organizations of society, **with informed consumers**, Member States, businesses, labour organizations and consumer and environmental organizations playing particularly important roles. **Informed consumers** have an essential role in promoting consumption that is environmentally, economically and socially sustainable, including through the effects of their choices on producers. Member States should promote the development and implementation of policies for sustainable consumption and the integration of those policies with other public policies. Policymaking by Member States should be conducted in consultation with business, consumer and environmental organizations and other concerned groups. Business has a responsibility for promoting sustainable consumption through the design, production and distribution of goods and services. Consumer and environmental organizations have a responsibility for promoting public participation and debate on sustainable consumption, for **informing consumers** and for working with Member States and businesses towards sustainable consumption (Emphasis added).”

and the fight against climate change calls for better information in areas, such as energy and transportation, where informed consumers could make a real difference.”<sup>8</sup>

In 2015 sustainable consumption became an integral part of the 2030 Agenda for Sustainable Development (2030 Agenda) and its Sustainable Development Goals (SDGs).<sup>9</sup> Goal 12 promotes sustainable consumption and production patterns and details the responsibilities of and actions to be taken by various stakeholders, including governments, businesses and consumers.

Sustainable consumption encompasses both the perspective of the producer and that of the consumer, which often leads to the use of the term “sustainable consumption and production.”<sup>10</sup> Some scholars also recognize the existence of a third dimension, relating to the social and environmental impacts of products and services, which would imply the existence of sustainable categories of products and services.<sup>11</sup>

From the “producer side”, sustainable production relates to the production of goods or services with improved standards of environmental performance, such as energy and water efficiency, waste prevention, and life cycle assessments. The “demand side” emphasizes the role of private consumers and their behavior, including institutional buyers, and the underlying consensus that through increased awareness and knowledge consumers can adapt their lifestyles taking into account the impact of their consumption choices.

Regardless of the definition used, sustainable consumption implies a change in behavior from all parties involved: business enterprises to develop sustainable business models; consumers to adopt more

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<sup>8</sup> Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee - EU Consumer Policy strategy 2007-2013 - Empowering consumers, enhancing their welfare, effectively protecting them (para 5.4), available at <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52007DC0099:EN:HTML> (last accessed on 28 May 2019).

<sup>9</sup> Paragraph 28 of the 2030 Agenda reads: “We (Countries) commit to making fundamental changes in the way that our societies produce and consume goods and services. Governments, international organizations, the business sector and other non-state actors and individuals must contribute to changing unsustainable consumption and production patterns, including through the mobilization, from all sources, of financial and technical assistance to strengthen developing countries’ scientific, technological and innovative capacities to move towards more sustainable patterns of consumption and production. We encourage the implementation of the 10-Year Framework of Programmes on Sustainable Consumption and Production. All countries take action, with developed countries taking the lead, taking into account the development and capabilities of developing countries”, available at <https://sustainabledevelopment.un.org/topics/sustainableconsumptionandproduction> (last accessed on 28 May 2019).

<sup>10</sup> See Sustainable Consumption and Production: A Handbook for Policy Makers – Global Edition, United Nations Environmental Program (UNEP), available at: <https://sustainabledevelopment.un.org/index.php?page=view&type=400&nr=1951&menu=35>, last accessed on 28 May 2019). UNEP refers more frequently to the term “sustainable consumption and production” defining it as “a holistic approach to minimising the negative environmental impacts from consumption and production systems while promoting quality of life for all.”

<sup>11</sup> Sustainable product is “a product that incorporates environmental and social factors and minimises its impact throughout the life cycle, throughout the supply chain and with respect to the socio-economic surroundings.” Source: UNEP, “ABC of SCP - Clarifying concepts on sustainable consumption and production”.

sustainable lifestyles; and governments to increase their efforts in encouraging sustainable production and consumption through appropriate policies.<sup>12</sup>

The following sections address how consumer policy can promote sustainable choices from the consumer and producer standpoints through the provision of information and “better products.”

### **III. The intersection between sustainability and consumer policy**

Consumer policy has been traditionally focused on protecting the health and safety of consumers, as well as their basic economic interests, such as price, quality, choice, and redress. Legislation in this domain also seeks to empower consumers to make informed choices and take legal action, as needed, such as in the case of marketing irregularities.

More recently consumer policy is evolving to encompass the sustainable dimension of consumption.<sup>13</sup> We may reasonably expect consumer protection agencies to take a more prominent role in promoting more sustainable lifestyles in the environmental and social sense. Some scholars have noted that “the need for change in consumer behavior and for more responsible lifestyles on the demand-side of the economy is challenging conventional concepts of consumer law and policy”.<sup>14</sup>

One of the main hurdles of achieving optimal levels of sustainable consumption is tackling consumer habits. In this connection, one study from the Organization for Economic Cooperation and Development (OECD) provides as follows:

“[a]most all of humankind’s impacts on the environment can be traced back to the way we produce and consumer goods and services. From the basics of food and shelter, to mobility, and to luxuries such as entertainment and tourism, how goods and services are produced significantly affect resource consumption and pollution. The challenge is to decouple economic development and environmental degradation by improving the efficiency of resource use and production processes. **The challenge to shift consumption patterns is primarily behavioural.**”<sup>15</sup>

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<sup>12</sup> For the purposes of this submission, the definition provided by the Oslo Symposium fits well, as it encompasses both the supply and demand sides of sustainable consumption.

<sup>13</sup> In 1999, the UN Guidelines were revised to include sustainable consumption in the Objectives and General Principles as well as in a specific new chapter. The new chapter on “Promotion of Sustainable Consumption” encourages governments “to create or strengthen effective regulatory mechanisms for the protection of consumers, including aspects of sustainable consumption.”

<sup>14</sup> Karsten, J., & Reisch, L. (2008), *Sustainability Policy and the Law*, German Policy Studies, 4(1), 45-66.

<sup>15</sup> See “OECD Work on Sustainable Development”, at p. 20, available at <https://www.oecd.org/greengrowth/47445613.pdf> (last accessed on 29 May 2019).

Behavioral change is one of the biggest challenges for regulators in almost every aspect of public policy. There are hard approaches and soft approaches to achieve change through policy strategies. Hard approaches include traditional policy interventions (control and command), such as limiting high sugar content of drinks or banning the use of the plastic bags.

These policy interventions are implemented to discourage the consumption of products with a social or environmental impact. Soft approaches rely on empowering and educating consumers to make better choices, i.e. to consume products that are eco-efficient and which pose less risk for their health and the environment. A combination of soft and hard approaches is evidenced in the examples which will be examined in further detail below. The next section of this submission discusses different approaches, including the adoption of information policy instruments by governments to promote sustainable consumption.

#### **IV. Nudging consumers towards better choices and products**

##### **(i) Nutritional labeling: the US cereal case & the Canadian Trans Fatty Acid (TFA) labelling**

One of the first studies analyzing the effects of disseminating nutritional information in relation to consumer behavior and product innovation was produced in 1990.<sup>16</sup> The objective of the study was to assess advantages and risks of allowing producers to provide consumers with scientific information that could help them make better dietary choices, as well as the effects this policy approach could have in terms of fostering product innovation. The study also identified policy approaches that could help deter consumer deception, while not inhibiting the dissemination of truthful science-based claims. It also provided a number of examples where this approach proved to be advantageous for consumers, highlighting that “[t]he gain to consumers from incorporating evolving scientific discoveries into basic decisions about food and product choices can be enormous.”<sup>17</sup>

One of the case studies that confirmed the proposition that providing nutritional information to consumers could have a positive impact on consumption behavior and product development involved the ready-to-

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<sup>16</sup> Pauline M. Ippolito, *The Regulation of Science-Based Claims in Advertising*, *Journal of Consumer Policy*, 13(4):413-445, Kluwer Academic Publishers (1990), available at [https://www.researchgate.net/publication/251270405\\_The\\_Regulation\\_of\\_Science-Based\\_Claims\\_in\\_Advertising](https://www.researchgate.net/publication/251270405_The_Regulation_of_Science-Based_Claims_in_Advertising) (last accessed on 28 May 2019).

<sup>17</sup> *Id.*



eat cereal market in the United States. Prior to 1984, health claims were not allowed on the labeling of food in the United States. However, upon a change in the food legislation, the Kellogg Company started to claim that *All Bran* cereal was high in fiber and that diets high in fiber could benefit consumers by reducing health risks. Other cereal companies then responded with similar claims for their own high fiber cereals, while producers not using high fiber cereals in their portfolio were nudged to reformulate their products to match consumer expectation and competitors' offers.<sup>18</sup>

By the year 1987 consumers substantially increased their consumption of high-fiber cereals, with the greatest increase occurring in the groups that previously consumed the least amount of fiber cereal. The profile of the cereal market then correspondingly changed. Market shares for high fiber cereals increased by almost 4% and more cereals with high fiber content were circulating on the market and being purchased.<sup>19</sup>

The cereal case example shows that producers have higher incentives to innovate and introduce better products on the market if they can highlight certain aspects of their products, while consumers can use the information provided to make better choices.

Another case study is the example of TFA in Canada. Consumption of TFA increases health risks. In 2002, Canada passed regulations requiring mandatory TFA food labeling, which came into force on most packaged foods by 2005. A study published on the European Journal of Clinical Nutrition assessed both grocery and restaurant foods likely to contain TFA in Canada in 2005–2007, the period following mandatory labeling of TFA content.<sup>20</sup> The conclusions were the following:

*“Among the major grocery and restaurant food products in Canada that might contain TFA in 2005–2007, nearly half (42%) contained X5% TFA on initial assessment. **Many were subsequently discontinued or reformulated to reduce TFA; in those assessed more than once, nearly three-quarters had undergone reformulation, with average reduction to p2% TFA.** Following reformulation, only one product had unchanged content of cis unsaturated fats; all others had increased cis unsaturated fats, most with absolute increase X10% of fatty acids and half with absolute increase X20%. The total fat content was generally unchanged.(...)[T]his first*

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<sup>18</sup> See Publication Before the Department of Health and Human Services Food and Drug Administration, in the Matter of Request for Comments on First Amendment Issues, Docket No. 02N-0209, Comments of the Staff of the Bureau of Economics, the Bureau of Consumer Protection, and the Office of Policy Planning of the Federal Trade Commission, 13 September 2002, [https://www.ftc.gov/sites/default/files/documents/advocacy\\_documents/ftc-staff-comment-food-and-drug-administration-concerning-first-amendment-issues/fdatextversion.pdf](https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-food-and-drug-administration-concerning-first-amendment-issues/fdatextversion.pdf) (last accessed on 28 May 2019).

<sup>19</sup> Ippolito, *supra* note 16.

<sup>20</sup> Ratnayake, et. al., *Nationwide product reformulations to reduce trans fatty acids in Canada: when trans fat goes out, what goes in?*, European Journal of Clinical Nutrition, <https://www.nature.com/articles/ejcn200839.pdf> (last accessed on 28 May 2019).

*large-scale contemporary assessment of TFA contents and reformulations suggests that, at least in industrialized nations with food labeling, rather than replacing TFA with SFA or increasing total fat content, food manufacturers/restaurants are generally taking advantage of costs and efforts of reformulation as an opportunity to not only reduce TFA but also increase the content of cis unsaturated fats. Such reformulation may provide additional health benefits beyond those due to lower TFA content. Most of the assessed food manufacturers and restaurants have global reach, and these findings should encourage food and restaurant industries in other regions that it is possible to reformulate foods to both eliminate industrial TFA and improve overall fatty acid composition (Emphasis added). ”<sup>21</sup>*

As seen in the cereal and TFA case studies, consumers can be encouraged to make better and more sustainable choices which benefit their health and well-being, through receiving enhanced information concerning products, either via labeling or other means. In both cases a change in the regulatory frameworks allowed consumers to receive more information about existing products, which also encouraged producers to improve their respective portfolios of products.

In the cereal case, researchers were also able to detect a change in consumption patterns, as consumers became aware of the advantages of consuming better products. Regulatory policies should encourage the provision of information, which can have the effect of tapping into the resources of the private sector to promote products based on scientific relationships. This type of fact-based dissemination of information should also be encouraged to spur product innovation, nudging producers to create more sustainable and better products.

(ii) The EU energy labelling case

In the area of sustainability and consumption, countries are using a range of laws, policies, standards, subsidies, labelling and other incentives to encourage household energy efficiency. Some of the measures are introduced through regulation, including mandatory standards and labelling. An example is the European Union’s Energy Labelling Directive (EU Energy Labelling Directive), which requires many products to carry energy labels showing energy consumption levels and compliance with minimum energy efficiency standards.<sup>22</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> EU framework for energy labelling, Regulation (EU) 2017/1369 of 4 July 2012, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1369&from=EN> (last accessed on 28 May 2019).

The use of standards and labelling communication relating to energy efficiency has become stricter and more widespread as climate change concerns intensify. In the European Union (EU), in addition to the EU Energy Labelling Directive, the main legislative instruments to improve energy efficiency are the Energy Efficiency Directive and the Energy Performance of Buildings Directive.<sup>23</sup> These include, for example, the target that by 2020 all new buildings must be ‘nearly zero-energy buildings’ (with very high energy performance and mostly supplied by renewables).<sup>24</sup>

A key component of energy consumption policies is the provision of information to consumers so they can choose more energy efficient products. The EU Energy Labelling Directive recognizes the role that information plays in helping consumer make better decisions from a sustainability standpoint:

**“Energy labelling enables customers to make informed choices based on the energy consumption of energy-related products.** Information on efficient and sustainable energy-related products makes a significant contribution to energy savings and to reducing energy bills, while at the same time promoting innovation and investments into the production of more energy efficient products. **Improving the efficiency of energy-related products through informed customer choice and harmonising related requirements at Union level benefits also manufacturers, industry and the Union economy overall** (Emphasis added).<sup>25</sup>

The EU Energy Labelling Directive acknowledges that “the provision of accurate, relevant and comparable information on the specific energy consumption of energy-related products facilitates the customer's choice in favor of products which consume less energy and other essential resources during use.”<sup>26</sup> At the same time, it also recognizes that in providing more information to consumers relating to energy efficiency, more competition will occur and this will foster innovation within the sector:

**“Manufacturers respond to the energy label by developing and placing on the market ever more efficient products.** In parallel, they tend to discontinue the production of less efficient products, stimulated to do so by Union law relating to ecodesign. **This technological development leads to the majority of product models populating the highest classes of the**

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<sup>23</sup> The Energy Efficiency Directive (EED) aims to promote energy efficiency measures within the European Union, which should result in the realization of the energy efficiency objectives of 20% in 2020 and 32,5% in 2030. The EED requires member states to set their national contribution to the European targets and specify which measures they are planning to take to achieve them (<https://ec.europa.eu/energy/en/topics/energy-efficiency/energy-efficiency-directive>, last accessed on 28 May 2019).

<sup>24</sup> See <https://ec.europa.eu/energy/en/topics/energy-efficiency/energy-performance-of-buildings/nearly-zero-energy-buildings>.

<sup>25</sup> See EU Framework for Energy Labelling (Regulation (EU) 2017/1369 of 4 July 2012), preamble, para. 2.

<sup>26</sup> *Id.*, para. 10.

**energy label. Further product differentiation may be necessary to enable customers to compare products properly**, leading to the need to rescale labels. This Regulation should therefore lay down detailed arrangements for rescaling in order to maximise legal certainty for suppliers and dealers (Empahsis added).”<sup>27</sup>

Evidence from the success of the EU Energy Labelling Directive shows that if the process of labelling is transparent, inclusive (with participation of the involved actors--technical experts, policy makers, consumer advocates, and companies) and trustworthy, consumers will make sustainable choices in selecting their household appliances:

“In the EU these labels are generally understood and they are very visible for all products – they are displayed on each product in the shop and there are also posters giving explanations in the shops and elsewhere. As a consequence consumers can take this information into account when making their purchase decisions and the evidence all suggests that consumers are energy conscious in making their purchasing decisions. It is not however clear whether this is for environmental or economic reasons, although both purposes coincide. Nevertheless the evidence does show that effective labeling affects the purchase decision.”<sup>28</sup>

Drawing from these examples, one may conclude that regulatory frameworks which encourage labeling and the accurate provision of information to consumers, spur more sustainable consumption patterns.

(iii) No Plastic Bag Campaign in Malaysia

Another form of providing information to consumers is through educational campaigns, which can also have the effect of influencing consumer behavior. In this connection, the Malaysian federal government deployed the campaign “*No Plastic Bag Day*” in 2011 to reduce use of plastic bag in supermarkets and grocery shops. Under the campaign, effective only on Saturdays, consumers would have to bring their own shopping bags or pay a charge of MYR 0.20 (USD 0.06) to use plastic bags to carry their purchases.

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<sup>27</sup> *Id.* at para. 15.

<sup>28</sup> Shahla Seifi, et. al., *Information Requirements for Sustainable Consumption*, *Social Responsibility Journal*, Vol. 8 no. 3, 2012, at p. 438.

A study found that the program was 52.3% effective, meaning that this percentage of consumers effectively avoided using plastic bags on Saturdays (e.g., bringing their own bags), while 47.7% of consumers paid for the extra charge in exchange for the plastic bag to carry their groceries.<sup>29</sup>

The study concluded that the charge alone does not do the job of changing consumer habit. In order to discourage the use of plastic bags during shopping, the Malaysian government would need to reconsider the amount of levy charged on consumers. Most importantly, the government should promote a better awareness campaign about the benefits of using fewer plastic bags to increase public adherence to the aspired sustainable behavior.<sup>30</sup>

The following sections will address how consumer information policies can encourage consumers to make better informed choices in relation to tobacco products.

## **V. Information policies in the context of tobacco and nicotine products**

### **(i) Information policy instruments can facilitate better choices and products**

In the context of a tobacco company, sustainability starts with addressing the negative health impacts of tobacco products.<sup>31</sup> This means developing and commercializing less harmful alternatives while managing social and environmental impacts across the operations and value chain.<sup>32</sup>

Smoking cigarettes causes serious disease, and the best way to avoid the harm of smoking is never to start, or to quit. While quitting is the best option, we believe it is also important to provide less harmful alternatives to smoking for those who don't quit.<sup>33</sup>

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<sup>29</sup> Shahariah Asmuni, et al., Public Participation and Effectiveness of the No Plastic Bag Day Program in Malaysia, *Procedia - Social and Behavioral Sciences* 168 (2015) 328 – 340 339.

<sup>30</sup> “To increase the level of effectiveness and participation of the public in the NPBD program, awareness of the program for the public can be increased. One way is to generate a culture of bringing own bags when shopping and making the practice more convenient, especially to males as they are less likely to bring bags when shopping. As the behavior of bringing own bags is not likely to depend on program information brought by in-store posters and flyers, social media can be used to inform and educate the public on the importance of a change of habit towards using less plastic bags.” *Id.*, page 338.

<sup>31</sup> See Philip Morris International 2018 Sustainability Report, available at [https://www.pmi.com/resources/docs/default-source/pmi-sustainability/pmi-sustainability-report-2018-low-res.pdf?sfvrsn=cada91b5\\_2](https://www.pmi.com/resources/docs/default-source/pmi-sustainability/pmi-sustainability-report-2018-low-res.pdf?sfvrsn=cada91b5_2) (last accessed on 29 May 2019).

<sup>32</sup> PMI's sustainability strategy, which covers its products, operations and value chain, has four pillars (i) transforming our business towards smoke-free products; (ii) driving our operational excellence through established programs of ethics and compliance, responsible marketing, and prevention of illicit tobacco trade; (iii) managing our social impact; and (iv) reducing our environmental footprint.

<sup>33</sup> “Seeking to provide men and women who will not quit with access to smoke-free products, we are re-allocating company resources from our cigarette business to the manufacturing and sales of smoke-free products. *Id.*, page 20.

From a consumer policy standpoint, providing information to consumers (i.e. adult smokers) about the availability of less harmful alternative tobacco and nicotine products can help them switch to these products, which will likely improve their quality of life. This approach can be realized through the promotion of harm reduction policies and strategies, which are defined as “policies, regulations and actions focused on reducing health risks, usually by providing safer forms of hazardous products or encouraging less risky behaviors, rather than simply banning products or behaviors.”<sup>34</sup>

In a tobacco control context, harm reduction can be defined as a strategy that lowers total tobacco-related mortality and morbidity despite continued exposure to tobacco-related toxicants.<sup>35</sup> For those smokers who will not quit smoking, harm reduction strategies have the potential to minimize damage to health, potentially encouraging a better overall quality of life. Countries that have strong tobacco control policies, like the United Kingdom and New Zealand, are starting to complement their traditional cessation and prevention programs with harm reduction strategies, ***“to support consumers in stopping smoking and adopting the use of less harmful nicotine products”***<sup>36</sup>

Combined with a harm reduction approach, information policy instruments can be used so that adult smokers may learn what alternative nicotine containing products are, what advantages they offer compared to continued smoking, as well as the underlying risks. Consumers need information in order to make informed decisions and potentially change behavior. In order to consider switching to less harmful products, access to information, aligned with Section 5(e) of the UN Guidelines, is a crucial step in the process.<sup>37</sup> The end of smoking worldwide can be accelerated by making sure that smokers who would otherwise continue to smoke have access to and awareness surrounding alternative products.<sup>38</sup>

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<sup>34</sup> Harry Shapiro, No Fire No Smoke: The Global State of Tobacco Harm Reduction 2018 at p. 6, available at <https://gsthr.org/downloads/GSTHR%20Report/Global-State-of-Tobacco-Harm-Reduction-2018.pdf> (last accessed 13 December 2018).

<sup>35</sup> Benjamin Mason Meier and Donna Shelley, “The Fourth Pillar of the Framework Convention on Tobacco Control: Harm Reduction and the International Human Right to Health,” Public Health Rep., 2006 Sep-Oct; 121(5): 494-500, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1564445/> (last accessed on 29 May 2018).

<sup>36</sup> See Towards a Smokefree Generation - A Tobacco Control Plan for England, at p. 15, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630217/Towards\\_a\\_Smoke\\_free\\_Generation\\_-\\_A\\_Tobacco\\_Control\\_Plan\\_for\\_England\\_2017-2022\\_\\_2\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630217/Towards_a_Smoke_free_Generation_-_A_Tobacco_Control_Plan_for_England_2017-2022__2_.pdf) (last accessed on 28 May 2019); See also Regulatory Impact Statement: Supporting smokers to switch to significantly less harmful alternatives, issued by the Government of New Zealand, available at [https://www.health.govt.nz/system/files/documents/pages/ris-support-smokers-to\\_switch-to-alternatives-dec-2018.pdf](https://www.health.govt.nz/system/files/documents/pages/ris-support-smokers-to_switch-to-alternatives-dec-2018.pdf) (last accessed on 28 May 2019).

<sup>37</sup> The provision of information to consumers serves a number of purposes, in particular: a) to differentiate products and communicate their characteristics in comparison to others; b) to protect consumer interests by ensuring accurate information is provided taking into account his/her well-being, such as product labels conveying product composition, nutritional or safety information; c) to support informed consumer choice by bringing information of certain products and their characteristics, including those that are “invisible” in the final good (e.g. organic food, GMO-free food, recycled paper, CFC’s free, dolphin friendly, etc.) d) Stimulate certain behavior or behavior change by filling information gaps (e.g. public information to promote energy efficiency and recycling).

<sup>38</sup> Note 32, *supra*.

The aforementioned EU Energy Labelling Directive is an example of how information policy instruments (e.g., labelling schemes) can be used to drive sustainable consumption, or choices that may benefit the well-being of consumers. Under this Directive, manufacturers are required to easily and clearly show energy consumption in such a manner that it is possible to compare the efficiency of one product with that of other makes and models. The intention is that consumers will prefer more energy efficient appliances over those with a higher consumption, resulting in less efficient products eventually being withdrawn or decommissioned. A similar rationale could eventually be considered for information policies concerning tobacco products, and other heavily regulated products on the market.

## **VI. Conclusion**

Ultimately, consumers should be equipped with information to make decisions that will foster sustainability. In this connection, consumer policy can nudge consumers towards more sustainable lifestyles and encourage companies to adopt more sustainable business models. Aligned with the spirit of the UN Guidelines, consumers should be empowered with information about the social impacts of products and services.

“Better choice” policies can positively influence behavior change towards products and services that are more sustainable, while simultaneously encouraging innovation and competition among companies to produce more sustainable products.

The three examples highlighted in this submission show that providing consumers with enhanced information via labeling, campaigns, or other methods, may encourage better dietary or health related choices, while in parallel allowing for the introduction of increasingly sustainable product choices on the market.

In accordance with Section 81 of the UN Guidelines, enhanced international cooperation should be encouraged in relation to consumer policies, which can impact sustainable consumption patterns globally and have a positive impact on society at large.