

DEED OF LICENCE

This Deed is made on the 10th day of November 2017

between the

COMMONWEALTH OF AUSTRALIA ('the Commonwealth') for the purposes of this Deed represented by and acting through the Department of Health ('the Department') ABN 83 605 426 759

and the

DIRECTOR GENERAL OF THE NATIONAL CENTER OF DISEASE CONTROL AND PUBLIC HEALTH (GEORGIA)

Professor Amiran Gamkrelidze

Director General

9 Asatiani Street

0177 Tbilisi

Georgia

('the Licensee')

BACKGROUND

- A. Retail packages of tobacco supplied in Australia are required to be printed with graphic health warnings under the *Competition and Consumer (Tobacco) Information Standard 2011* under section 134 of Schedule 2 to the *Competition and Consumer Act 2010*, and previously under the *Trade Practices (Consumer Product Information Standards (Tobacco) Regulations 2004* (repealed). The images, warning statements and explanatory messages that form the Copyright Material supplied by the Commonwealth are representations of ten [10] of the graphic health warnings that were required by law on the date of execution of this Deed.
- B. The Licensee wishes to use the Copyright Material in graphic health warnings on tobacco product packaging in Georgia, and in associated legislation and regulations, and in explanatory materials outlining the requirements of such legislation and regulations. The Licensee may also wish to use the Copyright Material in associated tobacco control and health promotion activities, including point of sale signage, media and advertising campaigns and educational products.

- C. The Commonwealth agrees to grant the Licensee a licence in respect of the Copyright Material on the terms and conditions contained in this Deed of Licence ('Deed').

OPERATIVE PROVISIONS

1. Interpretation

- 1.1 In this Deed, unless the contrary intention appears:

'Copyright Material' means the images contained in Attachment A to this Deed and includes any modifications or adaptations made by the Licensee.

'Final Product' means :

- (a) the graphic health warnings that will be used on tobacco product packaging in Georgia, and in the associated legislation and regulation materials; and
- (b) may also include associated tobacco control and health promotion materials and activities, including point of sale signage, media and advertising campaigns, and educational products.

'Permitted Use' means use in the Final Product for the purposes of promoting the anti-tobacco message within Georgia.

- 1.2 No variation of this Deed is binding unless it is agreed in writing between the parties.
- 1.3 The laws of the Australian Capital Territory apply to this Deed. The parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory in respect of any dispute under this Deed.

2. Licence

- 2.1 The Commonwealth hereby grants to the Licensee a royalty-free and licence fee-free, non-exclusive, non-transferable licence to use, reproduce, modify, adapt, publish, broadcast, make available online and electronically transmit the Copyright Material solely for the Permitted Use subject to the terms of this Deed.

3. Modifications and Adaptations

- 3.1 The Licensee must not permit any modifications or adaptations of the Copyright Material to be used, reproduced, published, broadcast, made available online or electronically transmitted unless the Licensee has provided a copy of the modifications or adaptations to the Commonwealth free of charge not less than 21 days prior to the day on which the modification or adaptation of the Copyright Material is to be used, reproduced, published, broadcast, made available online or electronically transmitted.
- 3.2 In the event that a modification or adaptation is made to the Copyright Material by the Licensee, then:
- (a) all intellectual property rights in that modification or adaptation will vest in the Commonwealth upon creation; and
 - (b) that modification or adaptation shall form part of the Copyright Material licensed by the Commonwealth to the Licensee under this Deed.

4. Term

- 4.1 This Deed commences on the date of execution, and, unless terminated earlier in accordance with clause 9 or 10, will continue for a period twenty [20] years.

5. Copyright Notice and Disclaimer

- 5.1 Unless the Commonwealth otherwise agrees, and subject to clause 5.2 below, the Licensee must include the following copyright notice beneath the Copyright Material with any printed, reproduced, broadcast, electronically transmitted, made available online, or otherwise published version of the Copyright Material:

© Commonwealth of Australia

- 5.2 The Licensee must include the following statement beneath the Copyright Material image "Cigar smoking damages your teeth and gums" instead of the copyright notice specified above at clause 5.1:

© Professor Laurence J Walsh, The University of Queensland

5.3 Given the limited space available on tobacco product packaging, the above copyright notices are NOT required to be published beneath the Copyright Material when the Copyright Material is used in a health warning published on tobacco product packaging.

5.4 Subject to clause 5.5, the Licensee must include with any printed, reproduced, broadcast, electronically transmitted, made available online, or otherwise published Copyright Material any disclaimers that the Commonwealth considers appropriate and provides in writing to the Licensee.

5.5 Given the limited space available on tobacco product packaging, the Commonwealth will not require the inclusion of any disclaimer under clause 5.4 for a graphic health warning published on tobacco product packaging.

6. Warranty

6.1 The Commonwealth makes no representation or warranty in respect of the accuracy or quality of the Copyright Material.

6.2 The Commonwealth warrants that it is the sole owner of the Copyright Material or otherwise has authority to license the Copyright Material to the Licensee under this Deed.

7. Indemnity

7.1 The Licensee agrees to indemnify and hold harmless and to release the Commonwealth, including its officers, employees and agents, from and against all liability, losses, claims, proceedings, damages, costs and expenses directly or indirectly relating to, or arising from, the use of, or reliance on, the contents of the Copyright Material by any person.

7.2 The Licensee's liability to indemnify the Commonwealth under this clause 7 will be reduced proportionately to the extent that any negligent or other tortious act or omission of the Commonwealth contributed to the relevant liability, loss, damage, cost or expense.

7.3 This clause 7 survives the expiration or earlier termination of this Deed.

8. Assignment and Sublicensing

8.1 The Licensee must not assign or purport to assign any of its rights under this Deed.

8.2 The Licensee must not sublicense its rights under this Deed without the prior written permission of the Commonwealth except:

- (a) as required to enable tobacco importers, manufacturers and their printing agencies to produce packaging with the Copyright Material; and
- (b) as required to enable third parties engaged directly by the Licensee to use the Copyright Material for the Permitted Use.

9. Termination by Notice

9.1 Either party may terminate this Deed by giving the other party not less than seven [7] days prior notice in writing

9.2 Subject to clause 9.3, upon termination, the Licensee must return all Copyright Material to the Commonwealth.

9.3 The Licensee will not be required to cancel any publishing or broadcasting of the Copyright Material which has been arranged prior to the date of the termination notice. If any publishing or broadcasting of the Copyright Material has been pre-arranged prior to the date of the termination notice, this Deed shall continue in relation to that pre-arranged publishing or broadcasting only and terminate on the date immediately following the completion of such pre-arranged publishing or broadcasting, or on the end date of this Deed, whichever is the earlier.

10. Termination for Default

10.1 Where a party fails to satisfy any of its obligations under this Deed, the other party may:

- (a) if it considers that the failure is not capable of remedy, by notice, terminate this Deed immediately;

- (b) if it considers that the failure is capable of remedy, by notice, require that the failure be remedied within a time specified in the notice (being not less than seven [7] days); and
- (c) if the failure is not remedied in accordance with a notice given under paragraph (b), by further notice, terminate this Deed immediately.

10.2 If this Deed is terminated by the Commonwealth under either clause 10.1(a) or clause 10.1(c):

- (a) clause 9.2 will apply; and
- (b) clause 9.3 will apply except that the Commonwealth will have sole discretion to require the Licensee to cancel any publishing or broadcasting of the Copyright Material arranged by the Licensee prior to the date of the termination notice where that publishing or broadcasting of the Copyright Material would be in breach of this Deed.

EXECUTED AS A DEED

SIGNED, SEALED AND DELIVERED

for and on behalf of the)
COMMONWEALTH OF AUSTRALIA)
acting through the Department of)
Health)
ABN 83 605 426 759 on:)

November 10, 2017)
Date)

by:)

Mr George MASRI)
Printed name of signatory)

Assistant Secretary)
Position of signatory)

in the presence of:)

Ms Christina BNSH)
Printed name of witness)


Signature


Signature of witness

SIGNED, SEALED AND DELIVERED

for and on behalf of the)
DIRECTOR GENERAL OF THE NATIONAL CENTER OF DISEASE CONTROL AND)
PUBLIC HEALTH (GEORGIA))

October 18, 2017)
Date)

by:)

Amiran Gamkrelidze MD PhD Professor)
Printed name of signatory)

Director General)
Position of signatory)


Signature

The signatory warrants that he/she has authority to bind the DIRECTOR GENERAL
OF THE NATIONAL CENTER OF DISEASE CONTROL AND PUBLIC HEALTH
(GEORGIA)

in the presence of:)

Lela Sturua MD PhD MPH)
Printed name of witness)


Signature of witness

Attachment A

The Copyright Material is the following images:

“Smoking harms unborn babies”



“Smoking causes blindness”



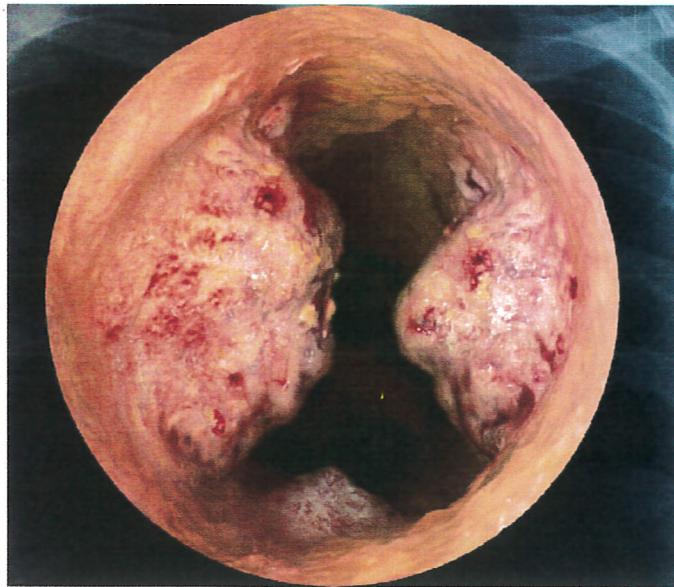
"Smoking causes peripheral vascular disease"



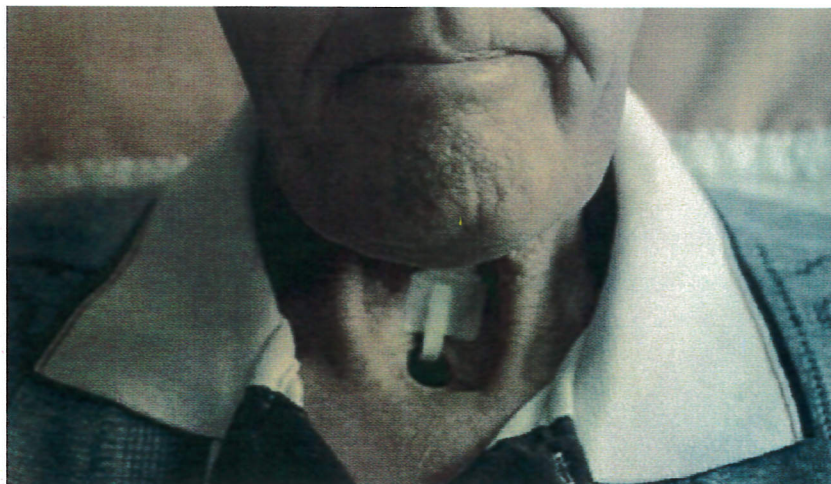
"Quitting will improve your health"



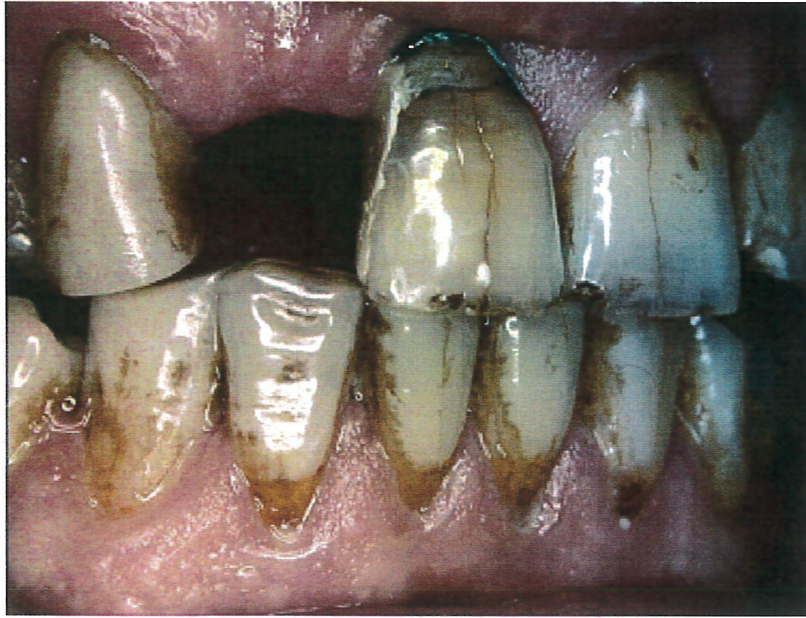
"Cigar smoking causes lung cancer"



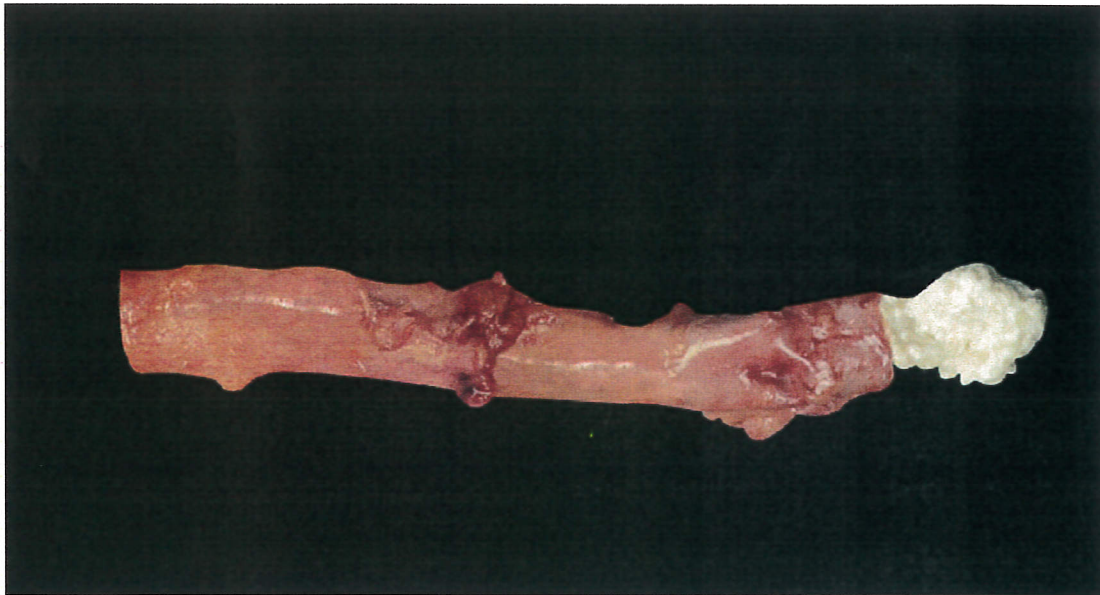
"Cigar smoking causes throat cancer"



"Cigar smoking damages your teeth and gums"



"Smoking clogs your arteries"



"Don't let children breathe your smoke"



"Smoking doubles your risk of stroke"

