

19th September 2016

Australian Competition & Consumer Commission
GPO BOX 3131
CANBERRA ACT 2601

Via email: adjudication@accc.gov.au

Dear Sir / Madam,

RE: A91550 – British American Tobacco Australia Limited & Ors – submission

With over 20 years in the industry and currently running a Franchise of over 200 tobacconist retailers, we have seen not only the introduction of the illicit trade to the market over this time, but also the vast increase in volume of illicit product now available and the ease at which a consumer can obtain these items.

As legislation has become stricter and tax hikes have significantly increased the prices of tobacco products, the industry has seen a massive increase in the quantity of illegal tobacco products available, whether it be chop chop (illegal loose tobacco), pre rolled tubes (tubes pre – filled with illegal loose tobacco), plain packaged products with no duties or taxes paid or alternatively, branded products illegally brought into the market. All of these items are cheaper than legal tobacco products and so readily attainable, that it is easy for consumers to be swayed into purchasing an illicit product. Consider that a box of 100 illicit pre-filled tubes costs approximately \$30 to \$35, yet the cost to make this product is next to nothing. The tax alone on a legal product of the same type and size would be approximately \$61. You can see that anyone supplying illegal tobacco products stands to make an extraordinary amount of money.

It is also important to note that the illicit products have no quality standards imposed (including not meeting the Reduced Fire Risk regulations) and therefore come with no recourse to the supplier, should any issues arise with it.

In summary, the current situation is that where retailers selling legal tobacco products, are consistently losing income to those that encourage the illicit trade activity, while the government continues to lose significant revenue through lost taxes. Although illicit tobacco has been identified as a widespread issue in Australia, no government body has taken ownership of the issue, hence the lack of enforcement. The penalties imposed to date for selling illicit trade is negligible compared to the excessive profits they make, so the illicit trade will continue to grow and consumers will continue to chase a cheaper, illicit tobacco product.

We, as an industry, have been left to police this problem and need to form a united front to try and fight this issue. Although British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited are all competitors in this industry, they won't have a sustainable business to compete over, if something isn't done to curb the illicit trade in the Australian market.

Currently each manufacturer has differing processes and ramifications to deal with the issue of retailers selling illicit tobacco products. If a retailer is caught consistently selling an illegal tobacco product through an investigation by a specific manufacturer, the manufacturer may decide to not recognise the retailer as a tobacconist, hence restricting the retailers ability to purchase stock direct and therefore limiting the retailers income. Unfortunately what happens then is that the retailer will focus their attention on the other two manufacturers, effectively playing them off against each other to try and sustain a maximum income while still continuing to trade in the illicit tobacco products.

This current strategy isn't having the desired effect of discouraging stores to participate in the illicit trade so a stronger approach needs to be introduced. With this in mind, we believe the ACCC needs to allow these three manufacturers to come together and prepare a joint strategy, to enable them to have some impact on the significant quantities of illicit tobacco being sold in Australia.

Allowing British American Tobacco Australia Limited, Philip Morris Limited and Imperial Tobacco Australia Limited to work together to form a strategy to deal with retailers that regularly break the law through the illicit tobacco activity, means we might finally see ramifications significant enough, for retailers to start to question whether they should continue to deal in illegal tobacco products.

We believe the three manufacturers need to be allowed the chance to form a common strategy to combat the illicit trade which would mean communicating over stores involved, investigations, steps in addressing the issues and ultimately restricting selling product to a retailer if the situation requires. An important factor in this is to ensure each of the Franchise groups, like ourselves, are included in any communication or outcomes for illicit trade activities that relate to our Franchisees.

We look forward to a favourable response from the ACCC in regards to this submission and should you require any further information, please do not hesitate to contact me.

Regards



Cristie Bowler

Operations Manager