

21ST SEPTEMBER 2016

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The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601
adjudication@acc.gov.au

AACS submission re:

British American Tobacco Australia Limited & Ors application for authorization A91550

To whom it may concern,

My name is Tony Yiasemides. I have been involved in the tobacco industry since 1986. In that time, I have owned several retail stores, I was the founder and am the sole director of the Black Cat Consultants Pty Ltd, and I am also an active wholesaler in the industry.

I would like to make the following submission to the Australian Competition and Consumer Commission (ACCC) on the application for authorization received from British American Tobacco Australia Limited, Imperial Tobacco Australia Limited, and Philip Morris Limited.

In principal, I fully support this initiative, however I have numerous concerns regarding the mechanism that will be used, the implementation, and the possible abuse of power by the applicants.

Illicit tobacco and rogue traders have been in the industry for decades. The applicants have knowingly overlooked this for many years. By illicit tobacco, I refer to “chop chop”, counterfeit tobacco, tobacco where the duty has not been paid, tobacco that is not compliant with Australian health standards and packaging, synthetic marijuana, and I also include implements used for the consumption of illegal drugs e.g. bonges and crack pipes.

In over 30 years of trading, I have noticed that the applicants have selectively turned a blind eye to rogue trading. In my opinion, the applicants will not target any rogue trader

that may be of some benefit to them. They will, however, target newcomers or traders that they feel threaten their market share. They will certainly target a trader that rejects their trading terms.

Furthermore, the applicants are often misinformed as to what is an illegal product. I am currently selling Manchester cigarettes, which have all been passed by customs and the Australian Health Department, and all duties are paid. I am constantly defending my product to retailers, because representatives of the applicants are [REDACTED] insisting that my product is illegal. They have no evidence [REDACTED]

Another concern is the mechanism which will be used.

Who will have the power to deem an activity or trader as “illegal”?

Who will decide the penalty?

What right of appeal is there?

Who will be the watchdog to oversee it?

The onus to prove that a product/activity is legal can be very costly to a small operator. A small operator would have no chance in court against the applicants. Their limitless funds would ensure that they could drag out a court case for years, bankrupting a small trader.

Tobacco companies are large organizations. While they strive to maintain a professional and credible façade, [REDACTED]

Who will speak out against the corrupt corporate dealings that selectively ignore illegal activities of trading partners with whom they have favorable terms?

In conclusion, I fully support the stamping out all forms of illegal activity in this industry. However, the body that polices and judges must be independent and impartial. A coordinated, and transparent, effort between law enforcement agencies, the industry, credible independent retailers and the Government will be required.

The applicants alone cannot be trusted.

I would be happy to discuss this proposal with you at your convenience and in private should you deem it necessary.

Yours sincerely,
Tony Yiasemides
Director,
The Black Cat Consultants.