



Australian Government
Department of Immigration
and Border Protection

4 November 2016

Dr Richard Chadwick
General Manager Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Dear Mr Chadwick

Thank you for inviting the Department of Immigration and Border Protection (the Department) to make a submission on the likely public benefits and detriment from the arrangements proposed by *British American Tobacco Australia Limited & Ors application for authorisation A91550* (the application).

The application does not impact directly on border controls, legislation or activities. The Department would, however, like to take this opportunity to comment on a number of statements made in the application.

The Department would like to correct an inaccuracy in the application: at page 3 of the Attachment to Form A the application states that investigations of the Department reveal that "most of the trade in illicit tobacco to consumers is conducted through existing retailers". Although the Department has stated that "illicit tobacco is available from a number of traditional tobacconists and tobacco retailers," it has not commented on, and is unable to comment on, the proportion of illicit trade that is conducted through existing retailers.

The application suggests that the proposed arrangements would reduce the loss of excise duties; it is, however, unclear how many consumers of illicit tobacco would purchase tobacco on which revenue has been paid, rather than quitting smoking or switching to another retailer that sells only illicit tobacco as a result of the arrangement. It is therefore difficult to quantify this potential benefit.

The application notes that there are inconsistencies and shortcomings in illicit tobacco laws and their enforcement, and that these contribute to their lack of effectiveness in addressing the supply of illicit tobacco at the retail or wholesale level (page 10 of the Attachment to Form A). Some of these inconsistencies and enforcement shortcomings are, however, being addressed by the Australian Government, as part of the *Tobacco excise measure to improve health outcomes and combat illicit tobacco* announced in the 2016-17 Budget.

The Department would appreciate the opportunity to consult with you further as your assessment of the application progresses. The Department's alternate contact for this matter is Sasha Billett, Director Trade Revenue Policy who can be contacted at sasha.billett@border.gov.au or (02) 6264 3388.

Yours sincerely

Andrew Chandler

A/g First Assistant Secretary Traveller, Customs and Industry Policy Division
Policy Group