

5 January 2017

Mr David Jones  
General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
CANBERRA ACT 2601



Via email: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)

Dear Mr Jones,

**British American Tobacco Australia & Ors application for authorisation - Submission regarding draft determination (Ref: A91550)**

Thank you for your letter dated 15 December 2016, in which you advise that the ACCC proposes to deny authorisation of the arrangements proposed by British American Tobacco, Imperial Tobacco Australia Limited and Philip Morris Limited ('the applicants').

We would like to extend our support for the ACCC's draft determination, and confirm that we share many of the ACCC's concerns regarding the arrangement as proposed by the applicants.

Cancer Council Victoria agrees that the enforcement of Australia's illicit tobacco laws is critical to reducing the prevalence of smoking in Australia, as it ensures that smokers remain in the legal tobacco market and are therefore subject to the full range of Australia's tobacco control efforts (including price measures, graphic health warnings and plain packaging). Although we acknowledge that the applicants have a responsibility to ensure that appropriate duties have been paid on all products made by their companies, we agree with the ACCC's view that there is considerable uncertainty regarding the extent to which the proposed arrangement would result in any decrease in the supply of illicit tobacco.

Furthermore, we reiterate the concerns expressed in our previous submission regarding the potential for the proposed arrangement to have a detrimental impact on Australia's tobacco control efforts.

In particular, we believe that the proposed arrangement has the potential to be misused by the applicants and/or their agents or employees to further interests other than the disruption of illicit tobacco trade. In this regard, we agree with the observations made in paragraphs 71 to 74 of the draft determination concerning the various interests held by the tobacco industry, which we believe conflict with the interests of public health policy.

Finally, we agree that the arrangement as proposed may be inconsistent with Article 5.3 of the FCTC. We believe that the arrangement lacks transparency, and has the potential to create the perception of cooperation and/or partnership between government and the tobacco industry. We are concerned that any such perception may have the effect of restoring a level of trust by the public in the industry, which may give the industry the ability to undermine Australia's efforts to reduce the harm caused by tobacco.

For the above reasons, Cancer Council Victoria accepts and supports the ACCC's view that the proposed arrangements may not result in a net public benefit.

Thank you for the opportunity to comment on the proposed determination.

If you require any further information, please do not hesitate to contact Kylie Lindorff, Manager, Tobacco Control Policy on 9514 6462 or via email at [kylie.lindorff@cancervic.org.au](mailto:kylie.lindorff@cancervic.org.au)

Sincerely,

A handwritten signature in black ink, appearing to read 'Harper', with a stylized flourish at the end.

Todd Harper  
Chief Executive Officer  
Cancer Council Victoria