



Government of Western Australia
Department of Health
Public Health Division

COPY

Mr David Jones
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

Dear Mr Jones

A91550 – BRITISH AMERICAN TOBACCO & ORS

I have noted the additional information provided by British American Tobacco Australia Limited, Imperial Tobacco Australia Limited and Philip Morris Limited (the Applicants) on 24 May 2017, however the following concerns remain:

- There are significant inherent conflicts of interest associated with the tobacco industry becoming involved in monitoring and enforcement activity related to tobacco control. The tobacco industry is subject to the same regulatory regime that they are seeking to “assist”, and the conflicts of interest that arise from the proposed activities are not capable of being remedied.
- The World Health Organisation Framework Convention on Tobacco Control, to which Australia is a signatory, outlines the need to protect tobacco control from industry interference.
- The additional information provided in the submission has been noted. However, this information does not negate the objections to the application, and the application for authorisation A91550 is opposed.
- In addition, the revised submission appears to propose a closer partnership with government agencies, which does not remedy the inherent conflicts of interest that arise for the applicants, and is in direct conflict with the recommendation in Article 5.3 of the World Health Organization Framework Convention on Tobacco Control, and

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- The issue of illicit tobacco is primarily a revenue evasion matter that attracts significant penalties under the Commonwealth *Excise Act 1901* and *Customs Act 1901*. Given that the production, distribution and sale of illicit tobacco products is currently illegal, and subject to regulatory oversight by a number of Commonwealth and State/Territory government regulatory authorities, it would be unnecessary and inappropriate for tobacco industry participants to be involved in regulatory activities as proposed.

For the reasons outlined above, the Department of Health opposes the application for authorisation A91550.

Yours sincerely



Professor Tarun Weeramanthri
ASSISTANT DIRECTOR GENERAL
PUBLIC HEALTH DIVISION

2nd June 2017