



A MODERN INDUSTRIAL APPROACH TO THE ECONOMY

TMA 2016 AUTUMN STATEMENT SUBMISSION

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1. Introduction

The Tobacco Manufacturers' Association (TMA) is the trade association for the UK tobacco industry. The TMA represents the views of its member companies when communicating with the UK Government, regional and local authorities and other stakeholders on tobacco related issues. The TMA's members are British American Tobacco UK Ltd., Imperial Tobacco Ltd. and Gallaher Ltd. (a member of the Japan Tobacco Group of companies).¹

2. Context

The tobacco sector is one of the most regulated in the UK. It was the subject of a significant amount of tobacco control legislation throughout the Coalition Government (2010-2015). This included both the implementation of regulations that had been passed under the previous Labour Government, such as the tobacco display ban, and new legislation, such as the European Union's Tobacco Products Directive (TPD) and standardised 'plain' packaging. It is clear that public opinion does not support the introduction of new tobacco control measures. Polling conducted by Populus shows that 55% of the public believe that no new measures are required to tackle smoking prevalence.²

The tobacco duty escalator was re-introduced in March 2010 and continued throughout the Coalition Government. This increased taxation on cigarette products by more than 40 per cent over the course of the last Parliament.³ Hand rolling tobacco (HRT) products were subject to an increase of almost 50 per cent over the same period.⁴ No other consumer product appears to have experienced such significant increases in total taxation. Populus

¹ http://www.the-tma.org.uk/wp-content/uploads/2016/07/TMA-Global_Business-Report-A4_16pp_v10.pdf

² Populus 2016

³ TMA Fact Book

⁴ TMA Fact Book

polling demonstrates that only 19% of the public believe that taxation on tobacco products is too low and 40% believe that it is already too high.⁵

The most up-to-date figures show that throughout this prolonged period of government intervention in the tobacco market, the overall tobacco tax gap, which includes purchases of both illicit and non-UK duty paid products, increased by more than 18 per cent.⁶ However, the value of illicit purchases alone increased by almost one quarter between 2010 and 2015.⁷ By the end of the Coalition Government's mandate, the annual tobacco tax gap stood at £2.6 billion, of which £2.1 billion was the result of illicit purchases.⁸

Over the course of the same period, the tobacco industry supported the Government in its principal aim: to reduce the scale of the UK's budget deficit. Taxes on tobacco products contributed in the region of £60 billion (including VAT) to the Exchequer between 2010 and 2015. The tobacco sector continues to support the Government's strategic priorities in other areas. For example, it supports approximately 60,000 high quality jobs in the UK in manufacturing, design, distribution and retail. It also makes significant annual investments in research and innovation, which support the development of products like e-cigarettes.⁹

The TMA's members would like to continue to support the Government's objectives in the future. In order to do this, the TMA and its members want to work with the Government to deliver a new industrial approach to the UK economy that will underpin innovation, entrepreneurialism and employment throughout the country.

3. Principles of a New Industrial Strategy

In order to deliver an industrial strategy that does not arbitrarily favour one sector over another and that will be effective in underpinning sustained economic growth, the Government should adopt a principle-led approach. These principles should include: a long-term strategic focus; a policy of proactive business engagement; a joined-up approach to public policy; a willingness to support innovative businesses; and a commitment to a consensus-led approach to regulation that gives due account to the input of business.

In regard to the tobacco sector, an approach of this sort would mark a significant departure from that of the previous Conservative and Coalition governments of the past six years.

a) *Long-Term Strategic Focus*

The TMA and its members believe that the long-term strategic focus of the Government's forthcoming industrial strategy should concentrate on increasing the number of high value jobs available in the UK economy; reducing the burdens that weigh on businesses throughout the country, regardless of sector; and helping businesses to maximise the positive impact of their spending throughout their supply chains.

⁵ Populus 2016

⁶ Tobacco Tax Gap Estimates 2015

⁷ Tobacco Tax Gap Estimates 2015

⁸ Tobacco Tax Gap Estimates 2015

⁹ http://www.the-tma.org.uk/wp-content/uploads/2016/07/TMA-Global_Business-Report-A4_16pp_v10.pdf

In the past, the Government has failed to apply this approach to a number of sectors, including tobacco, by successive governments. Public policy in regard to tobacco is all too often made according to political expediency at the behest of unaccountable anti-tobacco lobby groups. Moreover, tobacco regulation is rarely subject to an independent post-implementation review process, designed to assess the impact of policy interventions. However, this cavalier approach to understanding the consequences of legislation is not restricted to regulation concerning tobacco products.

The House of Commons' Committee of Public Accounts found in its recent report on *Better Regulation* that 'Once departments have implemented a regulatory decision, they do not do enough to monitor and evaluate its impact.'¹⁰ For example, of the 83 regulatory decisions taken in 2011 within the scope of the Business Impact Target, for which reviews are due in 2016, 'only two reviews have been submitted to the Regulatory Policy Committee (RPC) for scrutiny.'¹¹ In response to these findings, Michael Gibbons, Chair of the RPC, stated that he is 'concerned about the lack of post implementation policy reviews coming to us [the RPC] for scrutiny - I fear that crucial lessons are not being learned and opportunities missed to elicit best practice for future policy-making.'¹²

Polling conducted by Populus shows the importance that the public attaches to rigorous, independent post-implementation impact assessment of legislation. According to a recent survey, 61% of the public believe that it is important to carry out independent reviews of the impact of existing legislation prior to the introduction of new tobacco control measures.¹³ Such reviews should include an assessment of the impact of individual regulations and the cumulative impact of multiple, related regulations.

Independent assessment of the impact of regulation is essential to an industrial strategy that is focused on achieving sustained economic growth over the long-term. Regulation often increases the bureaucratic and cost burdens on businesses, which impede innovation and productivity throughout the economy. This is particularly relevant to the tobacco sector, which has diverse forward and backward linkages and invests heavily in innovation. For example, research conducted by Cogent, a research consultant, determined that for every £1 million spent by the tobacco industry in the UK, £1.7 million in additional spending is supported across the UK economy.¹⁴

Furthermore, a poor understanding of the strategic implications of legislation can result in serious consequences for the viability of jobs in the UK economy. For example, the introduction of the TPD was a key factor in undermining the cost effectiveness of Japan Tobacco International's production facility at Lisnafillan in Northern Ireland, which is due to close in 2017 with the loss of 800 high value jobs.¹⁵ The closure of Imperial Tobacco's

¹⁰ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmpubacc/487/487.pdf>

¹¹ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmpubacc/487/487.pdf>

¹² <https://www.gov.uk/government/news/rpc-response-to-pac-report>

¹³ Populus 2016

¹⁴ http://www.the-tma.org.uk/wp-content/uploads/2016/07/TMA-Global_Business-Report-A4_16pp_v10.pdf

¹⁵ <http://www.bbc.co.uk/news/uk-northern-ireland-36335799>

Nottingham production facility, which took place in 2016 with the loss of more than 500 high value jobs, was also in part the result of the pressure exerted by new legislation.¹⁶

b) *Pro-Active Business Engagement*

Policy making does not happen in a vacuum. It requires engagement with a wide range of stakeholders to ensure that a diverse range of information and opinion is available to policymakers throughout the pre-legislation phase of regulation development. However, anti-tobacco lobby groups continue to attempt to disrupt engagement between legitimate UK businesses and the local, regional and national governments operating throughout the country.

At a national level, these groups are trying to persuade government departments that they are prevented from engaging with the tobacco sector as a result of the UK's commitments under Article 5.3 of the World Health Organisation's Framework Convention on Tobacco Control (FCTC).¹⁷ However, Article 5.3 of the FCTC, to the extent it can be implemented subject to national law, promotes transparency and accountability in setting and implementing public health policies on tobacco control. In other words, nothing prevents government departments from engaging with the tobacco sector, in a transparent and accountable way, in particular on issues of innovation, the illegal tobacco trade, litter, youth access prevention, et cetera.

These are areas in which the TMA and its members are working effectively. At a local level, anti-tobacco groups continue to promote disengagement, wrongly, through the Local Government Declaration on Tobacco Control. This Declaration, which has been made by approximately 80 local authorities across the UK, hinders law enforcement's work to reduce the scale and impact of the illegal tobacco market, among other things, which has serious economic consequences in turn. For example, £2.1 billion in tobacco tax revenue is lost as a result of illegal tobacco consumption each and every year, which costs the retail sector around £3.4 billion in lost tobacco product sales.¹⁸ This represents around £30,000 in lost sales per small shop in the UK.¹⁹

The TMA and its members believe that pro-active engagement with businesses in all sectors of the economy should underpin the Government's new industrial strategy. Such engagement will not only promote economic growth and job creation, but also help to solve mutual challenges.

c) *Joined-Up Public Policy*

Government departments have distinct agendas, which are related to their principal briefs. However, this means that individual departments often act in a vacuum and introduce regulations that have not benefited from the experience and understanding of other

¹⁶ <http://www.nottinghampost.com/140-years-tobacco-production-nottingham-come-end/story-29289333-detail/story.html>

¹⁷ http://www.who.int/tobacco/wntd/2012/article_5_3_fctc/en/

¹⁸ http://www.the-tma.org.uk/wp-content/uploads/2016/07/TMA-Global_Business-Report-A4_16pp_v10.pdf

¹⁹ http://www.the-tma.org.uk/wp-content/uploads/2016/07/TMA-Global_Business-Report-A4_16pp_v10.pdf

affected departments. Policymaking in a vacuum all too often engenders unintended consequences.

A good example of this sort of policymaking is the standardisation of tobacco packaging, which was strongly advocated by the Department of Health. Indications from Australia, where plain packaging was introduced in 2012, demonstrate that since the implementation of this policy the volume of illegal tobacco products has increased by 2.5%.²⁰ This policy has now come to the UK, damaging its reputation as a centre for intellectual property and investment.²¹

Moreover, concerns about criminality and the UK's reputation as a centre for investment are not within the remit of the Department of Health. However, both of these issues are important to the design of a successful industrial strategy. The TMA and its members believe that a more cohesive approach to policymaking within and between government departments is critical if unintended consequences of legislation are to be minimised in the future.

d) *Support for Innovative Businesses*

Innovation is crucial to the UK's future economic performance. Indeed, the Confederation for British Industry believes that innovation 'drives productivity, helping to raise living standards and laying the foundations for tomorrow's world.'²² It is, therefore, crucial that the Government helps to nurture innovative industries and products. That does not mean that the Government should 'pick winners' as part of its new industrial approach, nor should it 'pick losers'. The maintenance of a level playing field between and within sectors of the economy is essential to the health of the UK's economic dynamism. However, the Government should support innovative businesses where it is able to by minimising legislation and bureaucratic barriers to product development.

For example, tobacco firms spend in the region of £158 million²³ per annum on research and innovation and much of this is dedicated to the development of next generation products, such as e-cigarettes, which were the fastest growing consumer product of the last four years. These products offer one of the best examples of how a disruptive technology can change purchasing patterns. In 2015, sales of such products accounted for approximately £400 million in revenue for the retail sector.²⁴ According to TMA survey data, 28% of smokers use e-cigarettes at present and a further 23% have used them and intend to do so again in the future.²⁵ Public Health England believes that e-cigarette products are at least 95% less harmful than conventional cigarette and hand rolling tobacco products.²⁶

²⁰ KPMG data

²¹ Global Intellectual Property Centre (2015)

²² Delivering Prosperity: A New Agenda for Business and Government

²³ http://www.the-tma.org.uk/wp-content/uploads/2016/07/TMA-Global_Business-Report-A4_16pp_v10.pdf

²⁴ Nielsen data (2016)

²⁵ TMA AIT Survey (2016)

²⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

As a result of the widespread adoption of e-cigarette products, their relative safety compared to conventional tobacco products and their positive economic impact on the retail sector, the development of this innovative technology should be supported by the Government.

e) *Consensus-Led Approach to Regulation*

The TMA and its members believe that the Government's approach to regulation should be grounded on a rigorous engagement process, involving all relevant stakeholders, with the aim of generating widespread agreement as to the way forward on a given issue. In the wake of the Government's commitment to a new industrial strategy, businesses should be at the centre of this new consensus-led approach.

Generating consensus on issues relating to tobacco policy is a challenge. However, given the 'long tail' of the tobacco industry in the UK – the 60,000 jobs that depend on it, the significant investment in supply chains and the importance of tobacco products to the retail sector – it is important that tobacco policy decisions benefit from the widest possible buy in from affected stakeholders, including tobacco companies, retail associations and other business groups.

4. Putting Principles into Action

The tobacco industry is not opposed to proportionate, evidence-based regulation. In future, we believe that proposals for Government intervention in the market should be shaped by the principles outlined above. The policies set out below meet this test.

- Commission an independent review of the tobacco tax escalator.
- Reduce Minimum Indicative Limits (MILs) levels for high risk, low tax markets to the lowest possible level allowed under EU law.
- Consider introducing transitional MILs levels for all other EU countries once Article 50 of the Lisbon Treaty has been invoked.
- Increase the resources available to law enforcement organisations, such as Border Force, charged with intercepting illegal tobacco products.
- Support the roll out of the product authentication system used by the Industry to law enforcement organisations.
- Take a cautious approach to the introduction of new rules and regulations on next generation products, such as e-cigarettes.

5. Conclusion

The principles outlined above will, if adopted and implemented, provide a strong foundation on which the Government will be able to build an industrial strategy that will deliver economic growth at every level of the UK economy.

This new approach will enable government departments, in partnership with businesses, to design and deliver effective, proportionate and appropriate regulation that will benefit from widespread consensus. It will also allow the Government to tackle issues of concern that it shares with businesses, such as crime, in a collaborative fashion, which will improve outcomes and reduce the negative economic impact of such problems.

The tobacco sector would like to work with the Government to tackle issues of shared concern, such as the illegal tobacco trade, the impact of litter on the UK's streets and the promotion of youth access prevention programmes. Furthermore, we would like to work collaboratively with officials and others from across government in order to design regulatory arrangements that have the fewest unintended, undesirable consequences.