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20th December 2016

Ms Nicola Blackwood MP
Minister for Public Health and Innovation
Department of Health
Richmond House
79 Whitehall
London
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Dear Minister,

I write regarding your Department's forthcoming Tobacco Control Strategy.

We welcome the opportunity to engage. I do this in the belief that good policy making is both evidence-based, as you yourself said in the recent Westminster Hall debate on tobacco control, but also considers all views no matter from where they originate. Purposeful exclusion as advocated by certain groups involved in this debate would appear to be self-defeating. We understand that some would state that the Department's engagement is restricted by the WHO's Framework Convention on Tobacco Control (FCTC), of which the UK is a signatory, but this should not preclude reasonable and transparent engagement in the same manner open to other groups. FCTC, to the extent that it can be implemented subject to National Law, promotes transparency and accountability in setting and implementing public health policies with respect to tobacco control. In other words, nothing prevents government departments from engaging with the tobacco sector in a transparent and accountable way. As a result, tobacco manufacturers and other related organisations should be consulted at the outset of any regulations intended to affect tobacco products.

We have previously been in contact with your predecessor and officials to offer our views on the development of the new Tobacco Control Strategy. In that exchange of letters, your Department declined to meet with us, but was content to receive comments and views on the strategy and other related issues. I would like to make clear that we are not opposed to proportionate regulation, however, it needs to be properly evidence-based.

I am aware that the Government has two objectives when it comes to tobacco policy; to raise revenue and protect public health. I therefore wish to take this opportunity to outline the impact that tobacco control measures introduced in recent years, including the Government's approach to tax, have had. I also wish to outline the role that the industry itself is playing in developing alternative products to tobacco, including next generation or harm reduction products.

I wish to make the following summary points;

- The previous tobacco control plan contained a range of measures, many of which have yet to be implemented. A number of tobacco control measures (such as the Retail Display Ban and Standardised Packaging) introduced over the last decade were not based on a broad evidence

base. We would suggest that the Government should consider evaluating fully the impact of these measures before moving on to other restrictions;

- A majority ¹ of the public do not support calls for further tobacco control measures;
- The Government's high tax policy on tobacco has led to 71%² of smokers buying non-UK duty paid tobacco in the last year, resulting in a tobacco tax gap of £3 billion³, the second highest single loss to the Treasury after VAT fraud.
- The ban on smaller pack sizes, in concert with the introduction of standardised packaging, presents a significant challenge to the small retail sector, Government tax revenues and those tackling the trade in illicit tobacco with no evidence to suggest that they improve public health outcomes.

It is imperative that the Government ensures proper and independent review of previously implemented tobacco control measures – such as the display ban measures included in the revised EU Tobacco Products Directive and standardised packaging – before introducing further regulatory measures.

For example, small and flavoured packs of tobacco will be banned in the UK under the European Union Tobacco Products Directive that was passed into UK law in early 2016. It became illegal to manufacture small packs for the UK market from May 2016 albeit with a one year sell through period ending May 2017. Flavoured tobacco products will be outlawed from 2020.

This measure will disproportionately impact on the UK given that small packs make up around 80% of the UK market – no other country in the EU comes close to this figure. Independent analysis conducted by Oxford Economics suggests that the UK Treasury will lose a total of £2.1 billion per annum both in lost incidental spend and via an increase in illicit and non-duty paid due to this measure. Public health groups in the UK saw small packs as a gateway out of tobacco consumption, not a gateway to it. Martin Dockrell, then Head of Policy for ASH said in 2008: "People buy smaller pack sizes such as 10s when they are attempting to reduce their tobacco consumption and quit. If you wanted people to lose weight you wouldn't take away fun-sized chocolate bars and only sell jumbos."⁴ Mr Dockrell is now Tobacco Control Lead at Public Health England.

Evidence suggests that the most recent declines in prevalence are the result of the commercialisation and widespread popularity (amongst smokers) of e-cigarette products. For example, in February 2016 the Local Government Association stated that:

"Since the advent of e-cigarettes and campaigns such as Stoptober, we have seen the number of users of smoking cessation services fall, while the population of smokers left is now more challenging to get to quit."⁵

TMA data supports the proposition that e-cigarettes are playing a significant role in the decline in smoking prevalence. Results from the TMA's annual survey of 12,000 smokers shows that 28% of smokers are current e-cigarette product users; 23% have used such products before and intend to use them again; and a further 22% of smokers who have not used e-cigarettes are considering trying one in the future.⁶

¹ Populus polling conducted in July 2016

² TMA poll of 12,000 smokers conducted May 2016

³ Measuring tax gaps 2016 edition. Tobacco tax gap estimates for 2015-16. HMRC, 20 October 2016

⁴ Convenience Store, 25th July 2008

⁵ Local Government Association (2016)

⁶ TMA Smokers' Survey (2016)

Polling conducted by Populus in July 2016 shows that 55% of the public believe that measures to tackle smoking have gone either too far (34%) or far enough (21%). In other words, a majority of the public believe that additional tobacco control measures are unnecessary.⁷ The same survey demonstrates that the public believe new tobacco control measures should be very low down the list of government priorities.⁸

Specific measures such as new restrictions on smoking on stage and screen, bans on smoking in parks and other outdoor public places, and an all-out prohibition on smoking in cars have little support amongst the public. Populus polling shows that 64% of adults believe they should be able to smoke alone in their private vehicle, an increase of 9% from the previous year. Some within the tobacco control lobby have called for bans on smoking in parks yet there is very little evidence available from them to support such a move. Whereas observational research conducted in 4 parks across London in July 2016 shows that smoking is not particularly common in such areas. Smokers comprised only 1.6% of all park visitors seen in Victoria Park, St James' Park, Queen's Park and Queen Mary & Mile End Park,⁹ suggesting that further regulatory measures relating to smoking in public places are not necessary.

In summary therefore:

- Calls for further tobacco control measures are not based on meaningful assessment of previous tobacco control measures effectiveness and do not have widespread public support;
- Whilst smoking prevalence has continued to fall, the reintroduction of the tobacco duty escalator in 2009 has coincided with a significant increase in the Tax Gap;
- The ongoing impact of electronic cigarettes on smoker behaviour has been largely disregarded in the calls for a new tobacco control strategy;
- The Government should commit to a robust and independent post implementation review of the all of the measures introduced in the last decade before considering introducing any further tobacco control measures.

The UK tobacco industry is committed to openness and transparency. I am therefore making a copy of this letter publicly available and will be placing it on the TMA website.

We are happy to meet to discuss these matters further however I appreciate that the advice that you will be given on this matter is likely to preclude this from happening. If this is the case, then I would appreciate your written comments on the points I raise above.

Yours sincerely,

A handwritten signature in black ink that reads "Giles Roca". The signature is fluid and cursive, with a large initial 'G' and 'R'.

Giles Roca
Director General

⁷ Populus (2016)

⁸ Populus (2016)

⁹ Mitchla Marketing (2016)