

direct line: 020 7544 0110  
email: groca@the-tma.org.uk  
our ref: GR/vt2652



30<sup>th</sup> June 2017

Steve Brine MP  
Minister for Public Health and Innovation  
Department of Health  
Richmond House  
London  
SW1A 2NS

Dear Minister,

I wanted to write to congratulate on your recent appointment and to raise a number of issues that fall within your remit in respect to tobacco control regulation and your Department's forthcoming tobacco control strategy.

### **Summary**

To assist, I summarise the points we would like to make:

- The tobacco industry is not opposed to proportionate, evidence-based measures;
- The government should undertake a full review of the effectiveness of a decades' worth of tobacco control measures before introducing any new measures or extending existing ones;
- Further tobacco control measures do not command widespread public support;
- There is clear evidence that suggests that recent measures, including plain packaging and the ban on small packs, are already pushing smokers to buy from illegal sources;
- The reintroduction of the tobacco duty escalator in 2009 has coincided with a significant increase in the black market and tax gap;
- Smoking prevalence has fallen more rapidly since the commercialisation and widespread availability of next generation products from 2013 onwards - the industry continues to invest significantly in such technologies;
- Small, independent retailers have been at the forefront of coping with such control measures that have failed to adhere to the principles of better or reduced regulation.

### **Introduction**

We welcome the opportunity to engage. I do this in the belief that good policy making is both evidence-based and proportionate but also considers all views no matter from where they originate. Purposeful exclusion of the industry as advocated by certain groups involved in this debate would appear to be self-defeating. Indeed, with the advent of next generation products such as e-cigarettes, the industry has much to offer.

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 outline the impact that tobacco control measures introduced in recent years, including the Government's approach to taxation, have had. I also wish to

outline the role that the industry itself is playing in developing alternative products to tobacco and why this should be at the heart of any new control strategy.

### **A decade of control measures**

The last decade saw the introduction of a series of tobacco control measures that, we believe, were introduced on questionable evidence including the retail display ban, bans on small packs, smoking in vehicles with children and standardised or plain packaging.

Such measures have had significant and damaging consequences to the UK's finances whilst perversely making it easier for children to access tobacco by encouraging the illicit market. The Government's high tax policy on tobacco has led to 71%<sup>1</sup> of smokers buying non-UK duty paid tobacco in the last year, resulting in a tobacco tax gap of £3 billion<sup>2</sup>, the second highest single loss to the Treasury after VAT fraud.

Consumer research<sup>3</sup> conducted during the last year as the ban on smaller pack sizes and the introduction of standardised packaging were brought in, alongside the other changes contained within the Tobacco Products Directive, show the following:

- There was a 14.5% increase in smokers buying packs of 20 cigarettes from illicit sources and abroad;
- Smokers buying larger packs of hand rolling tobacco from illicit sources and abroad almost doubled with a 91.7% increase;
- There was a 31.6% increase in smokers buying online from social media and websites advertising cheap illegal tobacco;
- There was a 22.1% increase in smokers buying any tobacco product from abroad, thereby avoiding UK duty;

It is therefore possible to say that plain packaging and the small packs ban are already having an impact on smokers' behaviour as they seek out cheaper alternatives from the black market and abroad - this is exactly what happened in Australia when plain packaging was introduced in 2012.

The ban on small packs will disproportionately impact on the UK given that small packs made 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 at Action on Smoking and Health 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. I'm with the retailers on this one."<sup>4</sup> Mr Dockrell is now lead on tobacco control at Public Health England.

On plain packaging, a recent review of 51 studies undertaken by Cochrane found no evidence that it acted to prevent youth-uptake – the chief justification why the measure was introduced in the UK. Whilst figures from France, that introduced plain packaging in January 2017, show cigarette consumption actually increased compared to last year when branding was allowed.

Such measures have particularly impacted independent retailers who have received little or no official assistance or guidance in how they should prepare or manage such changes or with the costs involved in

---

<sup>1</sup> TMA poll of 12,000 smokers conducted May 2016

<sup>2</sup> Measuring tax gaps 2016 edition. Tobacco tax gap estimates for 2015-16. HMRC, 20 October 2016

<sup>3</sup> Three waves of the polling of 1,000 smokers were conducted between December 2016 and May 2017 to coincide with the phasing in of the restrictions and tested the likely behaviour of smokers to them

<sup>4</sup> Convenience Store, 25<sup>th</sup> July 2008

ensuring that they are able to comply with them. Further measures would clearly have a detrimental impact on such businesses and their continued viability.

It is also clear that there is not the public support for further control measures. Polling conducted by Populus in 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.<sup>5</sup>

### **Next Generation Products**

There is a growing body of evidence that highlights such control measures have had limited effect in reducing smoking and that recent declines in prevalence are the result of the commercialisation and widespread popularity of next generation products. Indeed, recent ONS figures show that the decline in smoking prevalence has become much more pronounced since 2013 and the arrival on the market of next generation products. This stands in direct contrast to the impact of the tranche of tobacco control measures implemented over the last decade.

### **Conclusion**

We believe that it is imperative that the Government conducts a proper and independent review of previously implemented tobacco control measures before introducing further regulatory measures. We believe that any new tobacco control strategy should be based around education not further legislation and which recognises the benefits and role that next generation products can play.

We are happy to meet to discuss these matters further and I would be happy to share our survey and research data and also more about our work on next generation products. The industry also undertakes extensive work to support efforts to restrict under-age sales, to support and train retailers and in tackling the illicit market. Again, I would be happy to brief you on these initiatives.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Giles Roca', with a large, stylized initial 'G'.

Giles Roca  
Director General  
Tobacco Manufacturers' Association

---

<sup>5</sup> Populus (2016)