Tackling the Illicit Tobacco Trade

Illicit tobacco presents significant challenges for legitimate businesses, law enforcement, government revenues and communities. This briefing sets out the role of the TMA in tackling this pernicious trade.

Overview

- The tobacco industry contributes in the region of £11.5 billion per annum to the Exchequer. Throughout the supply chain and in forward linkages, the industry supports tens of thousands of jobs in the UK.
- The TMA’s member companies also invest heavily in research and development, particularly in regard to next generation products such as e-cigarettes.
- However, the illicit trade in tobacco products remains a significant challenge for the sector and a threat to tobacco tax revenues. In 2015/16, the consumption of illicit tobacco in the UK cost the Exchequer £2.4 billion in lost tax revenue¹, the second highest single loss to the Treasury after VAT avoidance.

Changing landscape

- The landscape within the tobacco sector has changed dramatically over the past year with the introduction of far-reaching legislation. The EU Tobacco Products Directive (TPD) which has banned packs of fewer than 20 cigarettes and hand rolling pouches of less than 30g and the introduction of (plain) standardised tobacco packaging are creating new challenges in tackling illicit tobacco products as smokers can no longer purchase their pack size of choice through legitimate channels. Counterfeit plain packaging has already been seized in parts the UK.
- Brexit presents many potential challenges but there are opportunities for the Government to consider too. The introduction of fixed limits on personal imports from the EU into the UK, bringing it into line with current duty-free allowances, would provide clarity for Border Force officers.

Tackling illicit trade

The industry takes the threat from the illicit market very seriously and is working across the globe with law enforcement and other stakeholders to counter the threat posed by smugglers and the organised criminal groups who dominate the illicit trade.

In the UK, much of the industry activity to tackle the illegal market comes under the Memorandum of Understanding (MoU) that the TMA member companies each have with HM Revenue & Customs (HMRC). This MoU creates a comprehensive framework for co-operation aimed at combating the smuggling of both genuine and counterfeit tobacco products into the UK as well as seeking to deter all aspects of the illicit trade in tobacco products.

From an industry perspective this can be summarised as a five step approach:

1. Intelligence
2. Insight
3. Technology
4. Collaborative Working
5. Mobilising Support

CASE STUDY
Cheetham Hill

The tobacco industry played a considerable role in the disruption of the illicit tobacco trade in Cheetham Hill, Manchester, the ‘counterfeit capital’ of the UK. The industry delivered intelligence to enforcement agencies as part of a broader clampdown on illegal counterfeit goods. In total around £5m of counterfeit goods were seized and led to the closure of more than 30 premises.

Further details can be found in the IPO’s report on the outcomes of the operation².

Tackling illicit trade

1 **Intelligence:** the industry generates considerable intelligence on the illegal tobacco market at an international, national and local level. With an on-the-ground presence the industry is able to provide intelligence anywhere in the UK. This is shared with the appropriate law enforcement agencies. In 2016, TMA member companies assisted HMRC with over 1,100 pieces of intelligence and responded to over 1,500 requests from enforcement agencies for assistance such as performing brand analysis. The volume of intelligence generated and delivered by the industry has supported enforcement action across the UK and in turn led to a significant increase in number of seizures and prosecutions.

2 **Insight:** the TMA’s member companies collect and analyse a large amount of data on the tobacco market, including a detailed picture of the dynamics of non-UK duty paid (NUKDP) consumption. The TMA’s survey of 12,000 adult smokers provides unique insight into adult smoker behaviour, awareness and attitudes towards the illegal market.

3 **Technology:** the tobacco industry has developed track and trace technology which allows enforcement to easily identify legitimate tobacco and its source.

4 **Collaborative working:** protocols are in place for HMRC and the tobacco industry to meet, to discuss and agree on appropriate action around areas to tackle the illicit market. The TMA works with the Scottish Anti-Ilicit Trade Group and the Northern Ireland Intellectual Property Crime Group and coordinates the Tobacco Security Forum to support the work of National Business Crime Solutions. These groups share insight to aid the work of enforcement agencies. The development of the National Anti-Ilicit Trade group will bring together a cross-section of law enforcement to focus on specific sectors.
Mobilising support: the TMA and its member companies conduct regular campaigns across national, regional and trade media in order to raise awareness of the impact of illegal tobacco and to encourage reporting. The breadth of industry campaigns with a strong call to action has played an important role in delivering actionable intelligence to law enforcement. TMA launched campaigns targeting passengers travelling through major national and regional airports as well as the UK’s largest ferry port. In 2017 the campaign was extended to cover specific routes from Eastern Europe.

Mobilising support: TMA member case studies

**BAT**
Over the past twelve months, British American Tobacco, UK and Ireland, has been working to highlight the issue of illicit trade with retailers across the country. As part of our Trade engagement programme, we have worked to highlight and address the spread of illicit trade and its negative impact on legitimate businesses, retailers and consumers. As well as direct communication with individual retailers we have undertaken a number of roundtable events across the country. These events aim to demonstrate and to build an understanding among the retail community of how we can best address the challenge of illicit trade.

Over the coming twelve months, BAT intends to launch a new Anti-Illlicit Trade programme which will seek to target both retailers and consumers in communities with high levels of illicit trade and work to specifically highlight the dangers of the black market. This will be supported by a targeted media campaign.

**Imperial Tobacco Ltd**
In 2017 Imperial has been involved in two nationwide campaigns with UK trade associations, the National Federation of Retail Newsagents (NFRN) and the Federation of Wholesale Distributors (FWD) to raise the profile of our anti-illicit trade activities. In the trade press, Imperial has focused on themes including a crackdown on selling counterfeit tobacco over social media and the increasing use of sniffer dogs to help sniff out illicit traders. Internally, the focus is on distributing assets from the Suspect it? Report it! campaign to assist Imperial colleagues in other key European markets (including France and Poland) under threat from illegal tobacco.

**JTI**
JTI’s long established and successful Don’t Be Tempted campaign moved to London in May (2017), highlighting the scale of illegal tobacco being sold in retail outlets in the capital. Test purchasing undertaken in 400 outlets showed that 50 of them were selling illegal tobacco. This shocking finding resulted in 18 newspaper articles, seven radio items and one television interview. One of the most positive outcomes of the campaign was the reaction of the public which manifested itself in a 12-fold increase in the number of calls to Crimestoppers related to illegal tobacco sales. All the information from the test purchases has been made available to the relevant Trading Standards departments.
Industry supports Government’s approach

Sanctions: the TMA has long called for more effective sanctions against the criminals who trade in illegal tobacco and has set out recommendations in response to HMRC’s consultation on this issue. Many of the measures outlined in the 2017 consultation received strong support from adult smokers.

- Rising financial penalties for repeat offenders
- Make it easier to name and shame people or companies that illegally evade tobacco tax
- On the spot fines for those selling illegal tobacco
- Make landowners and landlords more responsible for illegal goods sold on their premises

Challenges remain

Experience has shown that action on this front is most effective when it is coordinated, involves the industry and all levels of law enforcement.

However, serious operational and structural barriers still remain, most notably, at the local level around the role, effectiveness and capacity of Trading Standards and the impact of the Local Government Declaration on Tobacco Control (LGDT), which at times has been misinterpreted by some Trading Standards departments, resulting in disengagement with the industry.

TMA member companies work closely with those Trading Standards departments that are willing to engage on a number of operational issues through the work of brand enforcement officers, for example, in authenticating seized goods and providing intelligence and data for prosecutions. It’s vital that all local authorities take action to ensure engagement is allowed in an open and transparent manner, to effectively tackle the illicit tobacco trade.

Practical solutions to help tackle the illegal trade

In addition to the issues raised through HMRC’s sanctions consultation, the Government should also:

- review the Local Government Declaration on Tobacco Control and its impact on tackling illicit trade
- ensure that online platforms such as social media websites take greater responsibility for the promotion or sale of illegal tobacco via their platforms
- introduce fixed limits on personal imports of tobacco into the UK from EU countries
- make it mandatory for landlords to evict tenants who are caught trading in illegal tobacco