

NOTE OF MEETING IMPERIAL TOBACCO AND DH

Impact Assessment for Standardised Packaging of Tobacco Products

Skipton House
Wednesday 9 January 2013

Attendees

For Imperial Tobacco

- Richard Ross (Head of Political Affairs UK, Imperial Tobacco)
- Colin Wragg (Head of UK Corporate and Legal Affairs, Imperial Tobacco)

For DH

- [REDACTED] (DH Economist)
- [REDACTED] (DH Economist)
- [REDACTED] (DH Economist)
- [REDACTED] (DH Tobacco Programme Manager)
- [REDACTED] (DH Legal Services)

Background

- During the *Consultation on standardised packaging of tobacco products*, the Department of Health (DH) received responses from a number of tobacco companies. In their submissions, the companies indicated that they were unable to supply what DH considered to be potentially useful information for the purposes of their impact assessment because of commercial sensitivity. DH economists queried whether some of this information might be useful in further elaborating the impact assessment (IA).
- In November DH wrote to the four tobacco companies with the largest market shares operating in the UK, inviting them to meet to discuss how some of the data could be disclosed.

Main points of discussion:

Introduction

- [REDACTED] thanked the representatives of Imperial Tobacco for attending, and for their response to the consultation. He then explained that the purpose of the meeting was to address knowledge and data gaps in the DH's IA.
- For the purposes of transparency, [REDACTED] made clear that the Government takes its responsibility under Article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC) seriously.

- The format of the meeting was then briefly discussed and those present agreed that the minutes of the meeting would be cleared by all parties before being finalised.

Legal issues

- [REDACTED] set out DH's position with regard to the handling of sensitive information; he assured Imperial Tobacco that any confidential/sensitive information they supplied would be treated as such. He also pointed out that information such as this would not normally need to be disclosed under freedom of information requests because of an exemption to protect commercial interests. However this is not an absolute exemption under the Freedom of Information Act 2000 (FOIA) and therefore no guarantee can be given. In the event that an FOI request is made, DH would contact Imperial Tobacco at an early stage and liaise with them continuously throughout the process.
- Imperial Tobacco indicated they would be keen to see DH's assurances in writing so that they can discuss with their lawyers and come back accordingly. This may enable them to disclose more information than they would feel comfortable to do currently. However, they expressed concern that, despite DH's assurances, there were situations where DH may not be able to prevent sensitive information becoming public - for instance, if the public interest argument were used to overcome any exemption from FOI. Imperial Tobacco were also concerned that data they provided might be included in the IA in a form that would make it easy to trace back to them particularly if they were the only company to provide details. [REDACTED] assured them that any references to data would be aggregated in such a way as to make it anonymous.

Imperial Tobacco indicated that it may be prepared to further assist the DH in its attempts to address the knowledge and data gaps in the DH's impact assessment but this was subject to Imperial Tobacco being satisfied that any commercially sensitive information it provided to DH as part of the process would not be disclosed either through responses to FOI requests or otherwise. The meeting continued on the basis of this understanding.

Cost Areas

- Imperial Tobacco were keen to know why this meeting was focusing on the possible direct supply side costs, and not other wider or indirect costs such as the possible effect on the illicit trade in cigarettes which would be far greater and critical to the industry and Treasury. Imperial Tobacco noted that they believed the Treasury currently lose approximately £3bn in unpaid duty and VAT on illicit tobacco and every 1% increase represents another £110million plus. Imperial Tobacco also stressed that about 70,000 jobs rely, directly or indirectly on the tobacco supply chain in the UK. In response, DH said that through consultation responses, it understands the arguments on other possible indirect impacts, but it is the direct supply side impacts where the data gaps are greatest, and where additional data from tobacco companies could be of further assistance.

- Those present then went on to discuss a number of questions that had been sent to Imperial Tobacco prior to the meeting. While Imperial Tobacco were not in a position to answer all the questions, bearing in mind their commercially sensitive nature, the short time frame and the need to clarify some of the information that the Department of Health were seeking, the following points were discussed.

Re - Tooling

- Imperial Tobacco indicated that, should standardised packaging be implemented, and in a way that mandated changes in pack shape, the cost of re-tooling could be significant - running into many £10s of millions for new equipment all sourced outside the UK. Conversely, if only changes in print design were required, costs of compliance would be lower as this aspect of the manufacturing process can be changed more easily. Imperial Tobacco indicated that they may be able to provide more information to DH on this issue subject to receiving the necessary comfort from DH that such information, which would be commercially sensitive, would not be publically disclosed.
- On the costs of tobacco packaging, there was discussion of what would happen to production costs in the long run - whether the initial capital cost of adapting/changing existing complex high speed machines would be outweighed by the long term savings of using machines that were capable of packing all packs as they are all the same.
- To give some background to this issue Imperial Tobacco suggested DH go on a fact finding visit to their manufacturing plant in Nottingham. ■ indicated that they would consider taking up this offer as long as they could be sure that the visit would not be used as a lobbying opportunity and that DH met its commitments under Article 5.3. FCTC Imperial Tobacco undertook to write a letter of invitation and confirmed they are happy to ensure total transparency.

Re-Packaging

- DH were keen to find out how often cigarette manufacturers change package design. Imperial Tobacco indicated that there was no set repackaging cycle because changes are in response to consumer demand and regulatory changes e.g. rotation of pictorial health warnings. For this reason, they felt unable to provide meaningful data.
- On packaging costs, Imperial Tobacco suggested that DH contact the packaging manufacturers and said that they did not want to disclose data on supply costs that they had agreed with manufacturers because such information is commercially confidential for tobacco companies and their suppliers.
- Imperial Tobacco recommended that it would be beneficial for the Department of Health to consult with companies such as confectionery manufacturers and

greeting card manufacturers as they rely on the impulse market when smokers are buying their tobacco products in small retailers.

- Imperial Tobacco highlighted that the UK packaging industry can respond very quickly to changes owing to the short supply chain so this gives great flexibility. If however plain packaging was introduced this flexibility would no longer be needed and therefore would enable sourcing of packaging from the Far East, if not even the finished product. Both would result in significant job losses in the UK.

Types of cigarette packs

- Imperial Tobacco explained that the number of different cigarette packs very much depended on how pack shape was defined. Following an explanation from [REDACTED] of the intended meaning of this Imperial Tobacco felt they may be able to provide further information on this.

R & D

- Imperial Tobacco described how R&D with respect to packaging design was done both 'in house' as well as commissioned from external researchers many of which are SMEs, with the focus of the work being on how to improve the whole product offering. There was discussion of whether standardised packaging would lead to cost savings for manufactures from reducing the need for R & D spending. Imperial Tobacco indicated they may be able to provide more information on this if they were satisfied regarding the data confidentiality issues. However anything that reduced the need for this type of research to be carried out would result in some of these SMEs being put out of business.

Down-trading

- Whilst Imperial Tobacco acknowledged that standardised packaging may lead to consumers down-trading in the brands they buy, they were not aware of any modelling the company or anyone else had done to predict the impact of this effect. Imperial Tobacco believed that the largest downtrading would be to the illicit market resulting in losses of several £100 million to Government and industry.

Distribution of Shareholders

- DH were keen to establish what proportion of Imperial Tobacco's shares were held by UK residents. Imperial Tobacco noted that although their shares are listed on the London FTSE they have no way of tracking who owns them as many are held by nominees.

Conclusion

- DH was keen to know if Imperial Tobacco had any data on changes to illicit trade levels in Australia. Imperial Tobacco said it was too early at this point

and things are not directly comparable as simultaneously the sentences for tobacco smuggling have been radically increased. However if information comes available in the next few months Imperial Tobacco may be willing to share this with the Department of Health.

- DH concluded the meeting by setting out the current policy position. [REDACTED] explained that Ministers remain open minded on the issue and had not yet been given any information on which to make a decision.
- There was also a brief discussion of developments regarding the EU Tobacco Products Directive. DH were not able to give many details as the directive is still in its early stages. DH will be taking the lead on behalf of the UK government in progressing the TPD. DH said the Department of Health would welcome written comments on the EUTPD from Imperial Tobacco and others.

Actions

- [REDACTED] agreed to write directly to Colin Wragg regarding data confidentiality and the actions we would take in the event of an FOI request. [Subsequently [REDACTED] sent letter 21 January 2013]
- Imperial Tobacco to invite DH on a fact finding visit to its manufacturing plant in Nottingham. The invitation would include details of what would be involved in the trip so that DH could make an informed decision on whether it would be appropriate to accept given DH's commitments under Article 5.3. FCTC [Subsequently Richard Ross sent letter 11 January 2013]

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