



British American Tobacco Australia Limited's  
submission to the  
Parliamentary Joint Committee on Intelligence and  
Security

21 February 2018

## Home Affairs and Integrity Agencies Legislation Amendment Bill 2017

British American Tobacco Australia (BATA) welcomes the opportunity to make a submission on the Home Affairs and Integrity Agencies Legislation Amendment Bill 2017 (The Bill).

The Bill will give effect to the allocation of certain ministerial powers following the establishment of a new Home Affairs portfolio, and related changes strengthening the Attorney-General's oversight of intelligence, security and law enforcement agencies.

BATA supports measures proposed in the Bill that will strengthen and consolidate oversight of intelligence-gathering and surveillance, police and related law enforcement powers in Australia, and notes that this will be invaluable in the fight against illegal tobacco and organised crime.

The illegal tobacco trade poses a significant challenge to Australia's intelligence, security and law enforcement agencies. This illegal trade is depriving the Australian Government of more than \$1.6 billion in excise revenue (not including a material loss of GST revenue)<sup>1</sup> each year and is actively helping to fund organised crime<sup>2</sup>. As noted by the Australian Border Force (ABF) Assistant Commissioner Wayne Buchhorn, "Illicit tobacco is an increasingly attractive market to organised criminal syndicates due to the lucrative profits that can be made in evaded tax".<sup>3</sup>

The recent joint law enforcement raids conducted in Sydney, and internationally, demonstrate the effectiveness of joint agency action.<sup>4</sup> However, these recent raids also show the extent and sophistication of the illegal tobacco industry, representing just a small part of the illegal market in Australia.

In 2017, BATA asked the Australian Tax Office's Black Economy Taskforce to recommend to Government:

- A national anti-illegal tobacco strategy be adopted to coordinate government agencies' response to combating the illegal tobacco market.
- Legislative changes to strengthen the provisions related to illegal tobacco be progressed as a priority, particularly those already identified by the Government.<sup>5</sup>
- A permanent multi-agency law enforcement taskforce akin to the National Anti-Gangs Squad is established.

More effective enforcement is an essential element in the fight against illegal tobacco. As noted above, cooperation between all responsible government agencies is necessary to ensure an effective policy and law enforcement response.

The proposed changes in this Bill would be complemented by ensuring harmonisation with state and territory law enforcement. Currently each state and territory has different arrangements for the ability of law enforcement, and other government agencies, to respond to organised crime. These

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<sup>1</sup> KPMG, Illicit Tobacco in Australia 2016, 20 March 2017, p. 6.

<sup>2</sup> <http://www.news.com.au/national/breaking-news/five-men-charged-over-ibrahim-tobacco-ring/news-story/b438b2d3d9ce61d395ee2cf899a349da>

<sup>3</sup> ABF media release <http://newsroom.border.gov.au/releases/two-years-of-abf-400-tonnes-of-tobacco-seized>

<sup>4</sup> <https://www.afp.gov.au/news-media/media-releases/multi-agency-operation-destroys-global-criminal-syndicate>

<sup>5</sup> As a part of the budget 2016-17 announcement, the Government noted that it would "reform the Customs Act 1901 and Excise Act 1901 to provide enforcement officers with access to tiered offences and appropriate penalties, increasing the range of enforcement options available for illicit tobacco offences". See Budget Paper No. 2, Budget Measures 2016-17, p. 16.

state and territory provisions should be harmonised to ensure the ability for agencies to effectively respond to issues such as illegal tobacco. The Bill should acknowledge the need for harmonisation, and make provisions to facilitate a coordinated approach where possible.

In addition, BATA notes that industry is a valuable source of information in the fight against illicit tobacco and appropriate coordination, through dedicated relationship managers within law enforcement would be a useful tool in attacking the illicit tobacco trade in Australia.

BATA would welcome the opportunity to elaborate on the above issues, if required.