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30 May 2017

Senate Select Committee on Red Tape  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
[redtape.sen@aph.gov.au](mailto:redtape.sen@aph.gov.au)

## **RE: THE EFFECT OF RED TAPE ON TOBACCO RETAIL**

### **QUESTIONS ON NOTICE**

Imperial Tobacco Australia would like to thank the Committee for the opportunity to appear at the public hearing of the Senate Select Committee on Red Tape (“the effect of red tape on tobacco retail”), held in Sydney on Tuesday May 16, 2017.

At the hearing, we took several questions on notice. Herewith we endeavour to respond to those questions.

Referenced documents are included in the appendix and we welcome any further questions or queries the Committee may have.

In respect of our comments on heated tobacco products, we would also like to draw to the attention of the committee two recent developments subsequent to the hearing.

**The interim measure was extremely successful and praised by stakeholders including Government officials.**

In subsequent meetings with Customs representatives to discuss the permanency of this measure, it was relayed that this measure was considered to have been a success.

And for example, in a letter dated 17 May 2015 (see APPENDIX A), Re: Customs Regulation 2015 Exposure Draft Submission, Australian Customs and Border Protection Service commented “***While the measure was successful in addressing the immediate issues raised at the time by the introduction of plain packaging....***”

**In May 2007, following a public review, the Howard Government announced its intentions to rectify the matter.**

A press release titled ‘Excise – Reducing Compliance Costs for Businesses’ dated May 2007 (See APPENDIX B) from the Hon Peter Dutton MP, who was the Minister for Revenue and Assistant Treasurer from 27 January 2006 – 3 December 2007.

This press release states that “*The Government will implement two measures that will reduce compliance costs for businesses that are licensed excise manufacturers or importers of equivalent products.*”

Included in this release was a commitment from the Government to implement changes to “*reform the rules concerning eligibility for refunds, remissions and drawbacks of excise and excise-equivalent customs duty. The reform measure will allow all excise and excise-equivalent imported goods to be eligible for a refund of duty where they are returned to a place licensed for the good or destroyed with the prior approval of the relevant administrating authority. To be eligible for the refund of duty, such goods must be sufficiently identified as the goods on which duty has been paid.*”

## **HEATED TOBACCO PRODUCTS**

In respect of our comments on heated tobacco products, we would also like to draw to the attention of the committee two recent developments subsequent to the hearing:

**Legal action has been implemented in New Zealand against a supplier of these products, supporting earlier statements by the Ministry of Health that the products are illegal.**

See APPENDIX C for related articles.

**Research has been published questioning claims of “reduced risk” associated with heated tobacco products.**

See APPENDIX D

## **APPENDIX A**



**Australian Government**  
**Australian Customs and**  
**Border Protection Service**

PO Box 25  
Belconnen ACT 2617

Ms Rachel Elliott  
Government and Stakeholder Relations Manager  
Imperial Tobacco Australia Limited  
PO Box 7800  
Baulkham Hills NSW 2153  
Australia

Dear Ms Elliott

**Re: *Customs Regulation 2015 Exposure Draft Submission***

I am writing to thank you for your considered comments regarding the *Customs Regulation 2015* exposure draft.

In particular, I wanted to acknowledge the recommendation made for the permanent implementation of a local destruction and duty refund process for imported tobacco. As you note in your submission, during November 2012 to April 2013, an interim measure that permitted the local destruction of imported tobacco was enacted. As you further indicate in your submission, the interim measure for returning imported tobacco to a licensed warehouse for destruction was designed to address a particular issue associated with the introduction of plain packaging for tobacco products.

While the measure was successful in addressing the immediate issues raised at the time by the introduction of plain packaging, the measure was not undertaken with the intent of introducing a sustained operating practice. I note that the former Government announced in 2011/12 it would not proceed with a 2007/08 budget measure to implement this process.

I do note however, that this is a revenue policy matter and as such it would need to be raised with the Treasurer if any similar initiative was to be considered for the future.

Thank you for taking the time to prepare the submission. If you would like to discuss this matter further I can be contacted on 02 6264 4455 or by email at [adam.friederich@customs.gov.au](mailto:adam.friederich@customs.gov.au).

Yours, sincerely,

Adam Friederich  
Assistant Secretary (A/g)  
Customs and Industry Policy Branch

17 May 2015

## **APPENDIX B**

The Assistant Treasurer - Press Release - Excise – Reducing Compliance Costs for Bu... Page 1 of 3



**NO.045**

### **EXCISE – REDUCING COMPLIANCE COSTS FOR BUSINESSES**

The Government will implement two measures that will reduce compliance costs for businesses that are licensed excise manufacturers or importers of equivalent products.

Excisable products include fuel, alcohol (other than wine) and tobacco.

The Government will implement changes to:

- allow small businesses with deferred settlement permissions to settle their excise and excise-equivalent customs duties on a monthly cycle. The measure is targeted specifically to assist small business and, accordingly, eligibility will be linked to the Government's Small Business Alignment Framework announced by the Treasurer and Minister for Small Business and Tourism on 13 November 2006; and
- reform the rules concerning eligibility for refunds, remissions and drawbacks of excise and excise-equivalent customs duty. The reform measure will allow all excise and excise-equivalent imported goods to be eligible for a refund of duty where they are returned to a place licensed for the good or destroyed with the prior approval of the relevant administering authority. To be eligible for the refund of duty, such goods must be sufficiently identifiable as the goods on which duty was paid.

These measures build on the Government's track record of reducing red tape for small businesses', Peter Dutton said.

Implementation of both measures will require changes to legislation and will have effect from the later of 1 January 2008 or the date of Royal Assent of the enabling legislation.

Further information on the measures is provided in the attachment.

CANBERRA

8 May 2007

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### **ATTACHMENT**

<http://assistant.treasurer.gov.au/pcd/content/pressreleases/2007/045.asp?pf=1>

9/05/2007

### **Monthly settlement of excise and excise-equivalent customs duties for small business**

Excise duty (paid on locally manufactured goods) and excise-equivalent customs duty (paid on equivalent imported goods) may currently be settled on a periodic basis. In accordance with established government policy, this is normally on a weekly cycle with payment due by 4 pm on the Monday following the previous accounting week. This system operates under permissions for 'delivery without entry' granted by the Commissioner of Taxation under the *Excise Act 1901* and the CEO of Customs under the *Customs Act 1901*.

The new arrangements will allow small businesses that meet the definitions and requirements of the Government's Small Business Alignment Framework to settle their payments on a monthly basis rather than weekly. This will address the compliance burden for small business by reducing the number of payments from four per month to just one, allowing businesses to better manage their interactions with the ATO.

Settlement will be due on the 21<sup>st</sup> day of the month following the delivery without entry. The Government will examine the feasibility of moving these settlements onto the Business Activity Statement in order to further reduce the compliance burden faced by small business.

In addition to the small business arrangements, the Government will take the opportunity to codify the existing weekly settlement timeframe into the legislation. This will improve the transparency of these arrangements and provide greater certainty on one of the key conditions for all businesses that are eligible for periodic settlement permissions.

### **Enhancing and streamlining eligibility for refunds, remissions and drawbacks of excise and excise-equivalent customs duty**

Following a public review of the issue in 2006, the Government has agreed to reform the rules affecting eligibility for refunds, remissions and drawbacks of excise and excise-equivalent customs duty.

The new rules will operate on the principle that, provided the product does not become available for consumption on the domestic market, it should be eligible for a return of duty.

The package of rule changes will act to align excise and customs legislation to establish a consistent approach across product classes, including fuel, alcohol (other than wine) and tobacco, so that taxpayers seeking a refund, remission or drawback of duty will be subject to the same eligibility conditions. The approach will remove inconsistencies and artificial restrictions currently applying to such goods when a return of duty is sought. It will also provide greater opportunities for manufacturers and importers to access a return of duty and reduce their taxation compliance costs.

The new measures will consist of the following:

- allowing licensed entities to be eligible for a refund of duty on any excisable or excise-

equivalent imported goods where such goods are:

- returned to a place licensed for the good (under the applicable legislation); or,
- destroyed with the prior approval of the Chief Executive Officer (CEO) of the Australian Taxation Office or the CEO of the Australian Customs Service, as applicable;

on condition that such goods must be sufficiently identifiable as the goods on which duty was paid;

- the decision as to whether an officer is to be in attendance at the time of destruction will be at the discretion of the applicable agency;
- a remission of duty will continue to be available for excisable and excise-equivalent goods destroyed with the prior approval of the relevant CEO;
- excisable and excise-equivalent goods will continue to be eligible for a drawback of duty when they are exported;
- a refund or remission of duty will not be available in circumstances where an excisable or excise-equivalent good is lost, stolen, or otherwise unable to be returned to licensed premises for the good, or destroyed without approval of the relevant CEO;
- the eligible time period for a refund or drawback of duty on excisable goods will be extended to four years from the time that the excise was originally paid, consistent with GST rules and recent changes to Customs regulations;
- a minimum threshold of \$100 will be applied for eligibility to all drawbacks of duty;
- the relevant CEO will be permitted to determine, at his or her discretion, the minimum amount of a claim for a refund or remission of duty before it can be processed; and
- the changes will apply with effect from the later of 1 January 2008 or the date of Royal Assent of the enabling legislation.

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## **APPENDIX C**

<http://www.smh.com.au/federal-politics/political-news/tobacco-giant-philip-morris-smokefree-product-under-legal-cloud-in-nz-20170518-gw7vdq.html>

# **Tobacco giant Philip Morris' smoke-free product under legal cloud in NZ**



Tony Wright



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Tobacco giant Philip Morris has hit a major legal hurdle in its attempt to introduce a new smoke-free tobacco product to the Australasian market.

The New Zealand government has laid charges against the company for allegedly importing and selling tobacco cigarettes that are heated in an electronic device, but not burnt.



The heated-not-burned cigarettes are marketed overseas as IQOS. Photo: Bloomberg

The charges follow a rival company reporting Philip Morris for allegedly selling the product online to New Zealand customers after it was banned.

[www.imperial-tobacco.com](http://www.imperial-tobacco.com)

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## Tobacco company charged over importing prohibited product

1:46 PM Thursday May 18, 2017

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The Ministry of Health has laid charges against tobacco giant Philip Morris for the importation and selling of HEETS. Photo / Supplied

A big tobacco company being prosecuted for importing and selling a prohibited tobacco product says the device could help create a smoke-free New Zealand.

The Ministry of Health today laid charges against Philip Morris in connection with its tobacco sticks known as HEETS.

### National headlines

- Three people stranded 40m in air
- Hutt mayor happy to bring his own lunch
- Strange woman chases North Shore boy
- Man jailed after bashing neighbour for peeping on his wife
- The gender-bending question for schools
- Tributes flow for former Tauranga Boys' principal
- Taipa rugby loses gear in a fire
- Understanding Maori land law reform
- Father turns back to find kids dead in crash, collapses
- Car crashes into a tree near Rangiora

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## APPENDIX D

<http://www.dailymail.co.uk/health/article-4551908/Heat-not-burn-cigs-contain-cancer-causing-chemicals.html>

# Smokeless cigarettes contain MORE cancer-causing chemicals than traditional ones - despite tobacco giants claiming they are safer

- Philip Morris markets its IQOS heating device as being much safer for adults
- It has long said that it releases 90% less toxins than traditional cigarettes
- But a study found it still contains 84% of the nicotine found in cigarettes
- It was also discovered to contain more chemicals strongly linked to cancer

By [STEPHEN MATTHEWS FOR MAILONLINE](#)

PUBLISHED: 23:01 +10:00, 29 May 2017 | UPDATED: 02:51 +10:00, 30 May 2017



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Cigarettes that heat tobacco as opposed to burning it have been touted as the safest way of smoking in recent years.

But new research suggests that theory to be untrue, finding these 'smokeless' ones to actually contain more cancer-causing chemicals than traditional ones.

Smoking giant Philip Morris markets its IQOS device, which tobacco sticks can be placed into to be heated, as containing 90 per cent less toxins.

However, a study found the smoke of this gadget still has 84 per cent of the nicotine found in traditional cigarettes.

It was also found to contain more chemicals that are strongly linked to cancer in much higher concentrations than traditional methods.

These included carbon monoxide, volatile organic compounds and polycyclic aromatic hydrocarbons, scientists said.

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