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British American Tobacco Australia Limited's submission to the Parliamentary Joint Committee on Law Enforcement's Inquiry into the impacts of COVID-19 on criminal activity and law enforcement. July 2020



Executive summary

British American Tobacco Australia (BATA) has observed a change of behaviour in illegal tobacco activity since the COVID-19 pandemic began.

- Criminals have adapted to sharp decreases in international passenger numbers and moved toward significant increases of growing illegal tobacco in Australia.
- In Australia's mail stream there have been changes in the origin of illegal tobacco, with market information provided to BATA suggesting that there have been decreases from China and Hong Kong and increases from Japan, Vietnam, Korea, Indonesia, countries in the European Union and Middle East.
- Websites offering cigarettes that are less than the minimum legal price (excise per stick + GST) continue to operate in Australia and have seen sharp increases in traffic toward them.

These changes reflect the sophistication of the organised criminal networks running the illegal tobacco industry and their ability to adapt, far faster than current policy and law enforcement models can address them.

In order to address this criminal activity in a COVID-19 environment and into the future, BATA recommends a national approach to addressing illegal tobacco, which includes:

1. Not continuing large annual tobacco excise increases beyond the final legislated increase in September 2020;
2. Shutting down Australian websites selling illegal tobacco and requiring marketplace websites to remove illegal tobacco listings;
3. Greater scrutiny on tobacco import permit holders;
4. Increased enforcement in mail centres;
5. A uniform federal law to give police requisite enforcement powers and increasing penalties for selling illegal tobacco;
6. States and territories commit to greater penalties and retail enforcement; and
7. Education and support to state and territory governments on retail enforcement.

Introduction

British American Tobacco Australia limited is pleased to take this opportunity to make a submission to the Parliamentary Joint Committee on Law Enforcement's Inquiry into the impacts of COVID-19 on criminal activity and law enforcement.

BATA would like to commend the Australian Government and law enforcement agencies on the work that they do to combat the rising trade of illegal tobacco.

Unfortunately, despite this work, KPMG estimates that illegal tobacco consumption has risen from 14.1% in 2018 to 20.7% in 2019¹, with the Government missing out on more than \$3.4 billion in tobacco taxes in 2019, up from \$2.02 billion in 2018².

That is an increase of nearly 50 per cent in one year. One in every five cigarettes smoked in Australia now undermines Australia's strong tobacco control laws.

Changes in sources of supply during COVID-19 period

Market information suggests that COVID-19 has impacted the flow of goods from China and seen increase in supply from countries such as Japan, Korea, Vietnam and Indonesia. BATA has also observed increased flows of brands coming from the European Union and Middle East. BATA believes that this is due to limits in supply routes and a sharp decrease in international passenger traffic.

The decrease in international arrivals into Australia has meant that there has been an increased reliance on illegal tobacco coming into Australia through mail centres, not through incoming passengers smuggling tobacco in their luggage.



WeChat conversation with online seller of illegal tobacco

Illegal tobacco websites which offer delivery, such as ozziesmoke.com.au, bargainbongsonline.com.au, cheapcigarettes.com.au, cheapsmokesonline.com.au and cigaustralia.com have seen significant increases in web traffic. The products they offer are sold below the minimum cost of excise + GST for cigarettes and other tobacco products.

¹ KPMG 'Illicit Tobacco in Australia' (2019) Report

² Ibid.



Aggregate of visits to ozziesmoke.com.au, bargainbongsonline.com.au, cheapcigarettes.com.au, cheapsmokesonline.com.au and cigaustalia.com from July 1 2019 to June 1 2020³.

New formats introduced during COVID-19 period

In response to reduced availability in some common illegal cigarettes brands, some operators have started packing prefilled cigarette tubes (typically sold in unbranded boxes of 100) into smaller packets of 20 to meet this demand. These new pack sizes have become more common in May and June and have been available in the Sydney market for the first time.



Examples of illegal tobacco products that have arrived in Australia since the COVID-19 pandemic begun

Increased local production during COVID-19 period

The ATO recently released their seizure data for the 2019-20 financial year. During this period the ATO seized and destroyed 131 tonnes of illicit tobacco with an excise value of \$171 million. A significant increase vs 2018-19 where 40 tonnes was destroyed worth approx. \$42 million⁴. There

³ Similarweb.com data

⁴ [https://www.ato.gov.au/Media-centre/Media-releases/ATO-destroys-\\$171-million-of-illicit-tobacco/?utm_source=miragenews&utm_medium=miragenews&utm_campaign=news](https://www.ato.gov.au/Media-centre/Media-releases/ATO-destroys-$171-million-of-illicit-tobacco/?utm_source=miragenews&utm_medium=miragenews&utm_campaign=news)



has been a proliferation of leaf growing along the east coast from Victoria to Queensland in line with recent rainfall and the traditional illegal supply chain being constrained. This shows that criminals are adapting to the decrease in international arrivals and increasing local production of tobacco.

There has recently been a significant increase in Victoria of small scale “manufacturing” whereby empty cigarette tubes are filled with chop-chop tobacco and distributed to retail outlets as finished products⁵.

Similarly, there has been an increase in non-traditional outlets establishing themselves as pop-up tobacconists, using residential houses or other shop fronts such as souvenir stores and hair salons. From BATA’s observations, none of these stores have closed as a result of the COVID-19 pandemic.

Solutions

In order to address this criminal activity in a COVID-19 environment and into the future, BATA recommends a national approach to addressing illegal tobacco. This will allow the Government to recapture significant tax revenue, protect the interests of Australian retailers who are losing out to criminals and ensure that those who choose to smoke in Australia do so within our highly regulated environment.

The strategy should include:

1. Acknowledging that large excise increases have created a huge incentive for criminals to profit from illegal tobacco and driven smokers to seek it out as a cheaper alternative;
2. Shutting down Australian websites selling illegal tobacco and requiring marketplace websites to remove illegal tobacco listings;
3. Greater scrutiny on tobacco import permit holders to ensure that those operators who are operating illegal businesses under the cover of legitimate ones are weeded out;
4. Increased enforcement in mail centres to shut down an increasingly important supply method for criminals;
5. A uniform federal law to give police requisite enforcement powers and increasing penalties for selling illegal tobacco so that those who do grow tobacco locally or sneak it through our borders are still caught when they attempt to sell it;
6. States and territories commit to greater penalties and retail enforcement in acknowledgement that all governments have a role to play in stamping out this crime; and
7. Education and support to state and territory governments on retail enforcement given that the federal government have the best understanding of this sophisticated criminal activity and gain the greatest benefit from addressing it in the form of recaptured tobacco excise.

⁵ <https://www.news.com.au/news/national/300000-cigarettes-and-200kg-of-tobacco-allegedly-found-in-melbourne-raid/news-story/38d67c80e488b634bb494af63d217773>