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18 June 2020

Dear Madam

Japan Tobacco International (JTI) - Breach of Menthol Ban

We write further to our letter dated 10 June 2020.

You will recall that in our letter we informed you that we had carried out some initial scientific analysis of the products JTI has launched post the Menthol Ban. In particular, we informed you that a panel of sensory analysts had identified the taste of menthol when smoking Sovereign New Dual.

We are now in a position to share the report with you and attach it for your information.

Sensory Panel test results

The results of the Sensory Panel analysis of Sovereign New Dual is set out on page 5 of the report. It concludes that:

- 1) All sensory analysts identified a noticeable menthol taste when smoking. For the avoidance of doubt, the sensory analysts have confirmed that when they identify a taste as “noticeable”, that taste is “clearly noticeable”.
- 2) In addition, panellists identified a “cooling effect” in the mouth whilst smoking the product. This “cooling effect” is clearly distinguishable as a feeling in the mouth and is separate to the identification of a menthol taste.

This is confirmed in the Executive Summary of the report, which can be found at page 2.

Background to testing methodology

It is important to note that:

- The analysis was carried out by a panel of sensory experts in Hamburg, Germany. All panellists are pre-screened to ensure that their sense of taste and smell is sufficiently sensitive to detect flavours in tobacco. Aside from their expertise in sensory analysis, the panel members are regular consumers. They are not employed by, or part of, Imperial Brands plc or any of its subsidiaries.

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- The testing was carried out fully blinded i.e. the panellists had no knowledge of the brands they were smoking, the market origin of those brands, or background to the testing.
- The initial analysis, known as a “Special Session”, was carried out in response to anecdotal reports from a number of EU markets that JTI had launched a new product range which appeared to have a noticeable menthol impression. As such, products from three markets were selected for initial analysis: Slovenia, UK and Germany.
- The aim of the initial analysis was to ascertain whether the panellists could identify a clearly noticeable smell or taste other than tobacco.
- The research also aimed to establish a list of agreed smell, taste and flavour descriptors which could be taken forward to the next stage of the research, where in-depth sensory analysis is carried out on the full New Dual range against a benchmark (non-menthol) product. The descriptor lists are referred to as “questionnaires” within the report (as we understand is consistent with sensory research terminology). The list of descriptors that were agreed by the panel as being relevant for the next stage in the research are set out in Annex 1 to the report.

Next steps

The Sensory Panel test results plainly evidence that Sovereign New Dual has a clearly noticeable menthol taste.

Taken alongside JTI’s own admission that menthol has been added to the New Dual range, and the consumer comments on social media that the products taste of menthol (an extract of which was enclosed with our last letter), this is further compelling evidence that JTI has breached Regulation 15 of the TRPRs.

We are continuing our investigations in this matter and will share the results of these as soon as we are able to. That said, as set out in our letter dated 10 June 2020, we consider that there is sufficient evidence already for you to investigate and pursue injunctive relief in the form of an Enforcement Order banning the sale of the New Dual range.

Yours sincerely,

Imperial Tobacco Limited