

For the Attention of Martin Dockrell  
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Dear Mr Dockrell

### **POSSIBLE BREACHES OF THE TOBACCO AND RELATED PRODUCT REGULATIONS 2016**

We respectfully refer to our letter of 18 June 2020 in which British American Tobacco UK Limited (“**BAT**”) provided chemical and sensory analysis for new cigarette products launched by Gallaher Limited, the UK subsidiary of Japan Tobacco International (“**JTI**”).

We are writing to you to provide you with an additional independent sensory analysis report for Sterling Dual New, one of the new cigarette products launched by JTI. This analysis was commissioned by BAT but conducted by SGS, an independent and world leading inspection, verification, testing and certification company. Whilst this report, which is attached for your reference, only relates to one of the JTI products, we believe the results set out in the report can be extrapolated to the other JTI products as having a characterising flavour other than one of tobacco, based on BAT’s internal sensory analysis and the independent Essentra chemical analysis which we provided to you in our letter of 18 June 2020. A summary of the SGS report is set out in the remainder of this letter.

### **Key Outcomes of the Independent Analysis**

When compared to tobacco flavours in general and/or against a benchmark tobacco product, the overall flavour perception of Sterling Dual New was deemed to have a characterising flavour other than one of tobacco in both the Principle Component Analysis and Cluster Analysis. In particular, we draw your attention to page 8 of the report, where Sterling Dual New was evaluated as having two non-tobacco typical flavours of fruit and citrus, with fruit being more dominant than tobacco.

The dominant flavours detected in the Sterling Dual New Product were vanilla, fruity, floral, minty and citrus, such that these non-tobacco typical favours represent five of the top six flavours found in this product. The findings for this assessment are set out on page 9 of the report.

SGS have concluded from this assessment that the product is categorised as *critical*, meaning that it has a characterising flavour other than one of tobacco.

### **Independence & Assessment Criteria of SGS**

The attached report has been prepared by SGS, an independent and world leading inspection, verification, testing and certification company. SGS operate in accordance with the applicable Quality Management Systems and have state of the art facilities for in-house testing and analysis. The sensory analysis attached to this letter is provided in accordance with ISO 12399:2016 for the overall process for establishing a sensory profile for all products, including tobacco, and the sensory panellists

are trained and have passed the sensory qualification test in accordance with ISO 8586 or SOPM3326.

### Tobacco Market Impact of JTI Products

Based on market tracking data provided by Nielsen, which is set out below, we are also sharing with you an overview of the sales performance of these new products for the United Kingdom. In the six weeks to 20 June 2020 since these new products were launched by JTI, 152.7mn sticks, or 7.64mn packs, have been sold which we estimate will have generated approximately £6.84mn in net turnover. It is clear that JTI are making significant profit from these new products, which have a characterising flavour other than tobacco, and will continue to do so for as long as these products, which we believe and the evidence shows are in breach of TRPR, remain on the market.

COMPANY	HOUSE	BRAND	WK25	To date Sales	(£)20s pack Price	Approx. NTO (£)
			WE 20.06.20	(W21-W25)	8.95	10%
			Share (%)	Volume (mn)	CPTO (£mn)	NTO (£mn)
JTI	BENSON & HEDGES	BENSON & HEDGES NEW BLUE DUAL	0.36	7.53	3.4	0.34
JTI	BENSON & HEDGES	BENSON & HEDGES NEW SUPERKINGS GREEN	0.39	6.99	3.1	0.31
JTI	BENSON & HEDGES	BENSON & HEDGES NEW DUAL	0.32	7.10	3.2	0.32
JTI	SOVEREIGN	SOVEREIGN KING SIZE NEW DUAL	1.25	23.27	10.4	1.04
JTI	STERLING	STERLING NEW SUPERKINGS GREEN	0.70	13.74	6.1	0.61
JTI	STERLING	STERLING KING SIZE DUAL NEW	4.37	86.18	38.6	3.86
JTI	BERKELEY	BERKELEY NEW SUPERKINGS GREEN	0.23	4.52	2	0.2
JTI	MAYFAIR	MAYFAIR NEW GREEN	0.18	3.41	1.5	0.15
<b>TOTAL SHARE JTI POST-Menthol Ban SKUS</b>			<b>7.80</b>	<b>152.74</b>	<b>68.4</b>	<b>6.84</b>

In the absence of clarity from authorities, BAT is taking steps to put it into a position to be able launch products with similar characteristics which would enable us to compete fairly with these competitor products in line with our fiduciary duties. As we have requested before we would appreciate urgent clarity for the industry and consumers with regard to your position on these products.

### Conclusion

The independent SGS analysis confirms our internal sensorial assessments that the products have a characterising flavour other than one of tobacco and are in breach of TPRP and that JTI are making significant profits from these products. We reiterate that we are concerned that the continued presence of these products on the market undermines the Government's policy objectives and distorts competition, and respectfully repeat our request that you consider taking immediate steps to suspend the sales of these new products pending the conclusion of your investigation.

Yours sincerely

[Redacted Signature]

[Redacted Name] **BAT UK & Ireland**