

**Strictly Confidential**

For the Attention of Michael Brodie  
Public Health England  
Wellington House  
133-155 Waterloo Road  
London SE1 8UG

Building 7  
Chiswick Business Park  
566 Chiswick High Road  
London W4 5YG  
United Kingdom

[www.bat.com](http://www.bat.com)

20 November 2020

Dear Mr Brodie

**PLANNED LAUNCH OF NEW BAT CIGARETTE PRODUCTS**

We, British American Tobacco UK Limited (**BAT**), are writing to you to inform you about the planned launch of a new range of BAT cigarette products in the United Kingdom. We respectfully ask that you treat the information contained in this letter as commercially sensitive and confidential.

As you are aware from our previous correspondence, one of our competitors, Gallaher Limited, the UK subsidiary of Japan Tobacco International (**JTI**), has been commercialising a range of cigarette products in the UK containing levels of menthol and other flavourings for over five months despite the ban on cigarettes having a characterising flavour (including menthol) having come into effect on 20 May 2020 under section 15(1) of the Tobacco and Related Products Regulations 2016 (**TRPR**).

In addition to the above, other JTI subsidiaries have launched similar cigarette products in various European Union countries notwithstanding similar bans in those markets which like section 15(1) of the TRPR derive from Article 7(1) of the European Union Tobacco Products Directive (2014/40).

We had assumed based on the analysis we had undertaken and provided to you and others that the level of menthol added to these new JTI cigarettes in the UK would mean that these types of products would be deemed to have a characterising flavour. However, for the reasons set out below and despite our prior analysis, it seems that these products can remain lawfully on the market.

These new JTI cigarettes remain available for sale in the UK 171 days since we first raised this matter with the Office for Product Safety and Standards and 156 days since we raised this matter with Public Health England. In addition, similar JTI products remain available in all European Union countries where they have been launched despite our repeated correspondence with regulators.

We understand based on your letter dated 18 September 2020 that your investigation into these new JTI cigarettes in the UK is on hold pending the outcome of a European Commission investigation pursuant to Regulation (EU) 2016/779 into similar JTI products which are available in Sweden. The Directorate-General for Health and Food Safety (on behalf of the European Commission) has however stated in recent correspondence with our external legal counsel on 26 October 2020 that it is aware that several Member States are examining these type of products available in their markets and that currently the European Commission is simply monitoring the situation.

The position of Public Health England and the European Commission on this matter seem to conflict and it would appear that no investigation related to these JTI products (which remain available on the UK market) is actually ongoing. In view of this state of affairs, and given that JTI's products continue to be available in the UK and elsewhere unimpeded, it is our understanding that for the time being these types of cigarette product can be lawfully sold in the UK market.

In light of the above, and the distortion in the market which has been caused by these new JTI products, we want to inform you that BAT is intending to launch a new range of cigarettes in the UK which will directly compete with these new JTI products. We plan to notify these products via the UK CEG system prior to launch.

We will assume that you agree with our interpretation as set out in this letter unless you raise any specific objections.

Yours sincerely

A handwritten signature in black ink, appearing to be 'FS', written in a cursive style.

Fredrik Svensson  
**General Manager – BAT UK & Ireland**