

Rt Hon. Victoria Atkins
Secretary of State for Health and Social Care
Department of Health and Social Care
39 Victoria Street
London
SW1H 0EU

1 December 2023

Dear Secretary of State,

A consultation on the proposed actions the UK Government and devolved administrations will take to tackle smoking and youth vaping ("the Consultation")

We refer to the Consultation presently being carried out by your Department ("DHSC") and devolved administrations in respect of Wales, Scotland and Northern Ireland. As you are aware, responses to the Consultation are due by 11:59 pm on 6 December 2023.

The Consultation followed a command paper published by DHSC on 4 October 2023 which stated the Government's intention to take action with a view to "*creating the first smokefree generation*" in the United Kingdom. In particular, DHSC and devolved administrations are consulting, amongst other matters, on a policy that will make it an offence for anyone born on or after 1 January 2009 to be sold tobacco products ("**the Tobacco Sale Ban proposal**"). The Consultation indicates that DHSC, Scottish Government and Welsh Government "*intend to bring forward legislation as soon as possible*".

The Imperial Brands group ("**Imperial**") has serious concerns about the substantive merits, and the long-term impact, of a number of the proposals that are canvassed in the Consultation. We will explain those further in our formal response to the Consultation. The purpose of this letter is to explain Imperial's concerns about the adequacy of the Consultation given the magnitude and complexity of the proposals that are being consulted upon.

For the reasons summarised below, Imperial considers that the Consultation process is materially deficient and unfair in several important respects. If the UK Government and devolved administrations were to implement the Tobacco Sale Ban proposal without first remedying those deficiencies, such a decision would be manifestly unfair to Imperial and contrary to the fundamental principles of good administration: when governments fail to take advantage of the experience and expertise of those they are regulating in order to test their assumptions and analysis, governments tend to get things wrong.

If the Tobacco Sale Ban proposal set out in the Consultation was implemented, this will have far reaching and serious impacts on Imperial's business in the United Kingdom and, in particular, on the ability of Imperial to carry on the business of the sale of a regulated, lawful product; as Imperial has done in the United Kingdom for over 120 years. During that time, Imperial has made a significant investment in its business in the United Kingdom, and a material contribution to the local and national economy.



The nature of the Tobacco Sale Ban proposal in this regard is, as far as we are aware, unprecedented in the United Kingdom.

Against that background, the approach that is taken in the Consultation is gravely concerning:

- Remarkably, the producers of the products that would be subject to the Tobacco Sale Ban proposal – i.e. those most significantly, adversely, affected by the proposal - are not amongst those invited to respond to the Consultation, see, e.g.:

“We want to hear from:

- *the public - from young people, parents, carers and teachers*
 - *the retail sector and the independent vaping industry*
 - *local authorities across the UK*
 - *clinicians and medical professionals*
 - *public health stakeholders and academic experts*
 - *employers and trade unions”*
- The Consultation was launched on 12 October 2023 and updated on 20 October 2023. Imperial has therefore had less than two months to respond to a consultation which has fundamental implications for the future of its business in the United Kingdom.
 - The questions in the Consultation are multiple choice with a request to provide an explanation and evidence for the selected response in a maximum of 300 words for each question. That format is fundamentally unsuitable for consideration of a policy with such far reaching effects and which raises complex, multifactorial issues.
 - In terms of next steps, it is unclear whether Imperial (and others) will be afforded the opportunity to provide further comments, by way of a further consultation, in light of the Government's review of the Consultation responses and accompanying evidence, as well as the planned further review of the international evidence base and publication of impact assessments. Imperial questions the fairness of a process which does not provide for further or alternative ways for interested parties to make representations on the current proposals devised by the UK Government and devolved administrations.



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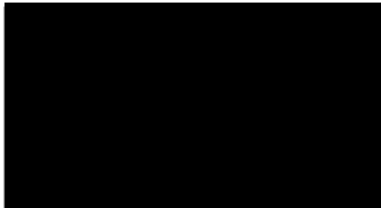
- No information or evidence is provided in the Consultation regarding what review of the “*international evidence base*” DHSC and the devolved administrations have already conducted. Imperial is essentially unsighted on and unable to respond intelligently to any analysis or evidence on which DHSC and the devolved administrations rely in this regard. Imperial has serious concerns about the adequacy and fairness of a proposal where the evidence base for such proposal has not been shared and it is unclear if the process will provide an opportunity for further consultation in light of the planned further review of the evidence base.

In short, Imperial is being denied a fair opportunity to consider and respond to proposed measures that will materially impact the future of a significant aspect of its business in the United Kingdom.

In light of the above comments, Imperial requests the following:

- a commitment to review the Imperial full submission to the consultation which will be submitted via the consultation portal and sent via email to the DHSC;
- a meeting with the Secretary of State for Department of Health and Social Care; and
- an opportunity to comment on the DHSC’s summary report of the consultation responses and any draft regulations when published.

Yours faithfully



Imperial Tobacco Ltd.



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