

Rishi Sunak
Prime Minister,
First Lord of the Treasury,
Minister for the Civil Service, and Minister for the Union
House of Commons
London,
SW1A 0AA

February 15th, 2024

Dear Rishi Sunak,

Subject: Concerns Regarding the Proposed Smoke-Free Generation Ban

I trust this letter finds you well. We are writing to express our deep concerns regarding the recent proposal to implement a Smoke-Free Generation ban. While we understand the Government's commitment to public health, we believe there are significant implications associated with this decision that warrant careful consideration.

Firstly, we would like to highlight these implications which can be summarised as follows:

- The measures overturn the fundamental principle that adults should have autonomy over their own bodies/decisions.
- The generational ban will create absurd situations, such as a 26-year-old being deemed capable of purchasing tobacco, while a 25-year-old is not.
- The likely trajectory of a generational tobacco ban is full prohibition across all age groups well before the legal smoking age encompasses the entire population. The last 20 years have seen the UK government introduce increasingly coercive anti-smoking measures, including some of the world's highest tobacco taxes. Despite strongly discouraging smoking, the government has always respected the right of adults to consume tobacco products and has always pursued policies that are, at least nominally, evidence-based. The policy of incrementally prohibiting the sale of tobacco represents a departure from these principles.
- Regulation of tobacco in Britain has always been underpinned by the assumption that informed adult consumers have the right to smoke: my body, my choice. The generational ban will overturn this fundamental freedom for the first time in British history. This requires a more substantial debate about the relationship between the state and the individual than the government has allowed in its short public consultation. The ban infantilises one cohort of adults, discriminates on the basis of age and raises issues of intergenerational unfairness. Even people who have no intention of ever buying tobacco may feel discriminated against if someone a few years older than them has a right that has been withheld from them.

Secondly, it is essential to evaluate the economic ramifications of implementing such a ban. The tobacco industry is a substantial contributor to the national economy, providing employment opportunities and generating revenue through duties and taxes.

A measure providing for a progressive ban on tobacco sales over time removes the long-term existence of a legal industry, but also has immediate implications for the operation of that industry in terms of job losses, the viability of many of the businesses involved, and also a decline in Government revenues, which could have ripple effects across other sectors.

In a major Government policy announcement, Neil O'Brien, former Minister for Primary Care and Public Health, stated in his speech on achieving smokefree 2030 at the DHSC Webinar on 11/4/23:

“...The Khan Review last year advocated the ‘New Zealand’ approach this would be a major departure from policy pursued over recent decades which has emphasised personal responsibility and help for people to quit. And it is the help for current smokers to quit that we want to focus on there is much more we can do to help people quit smoking....”

The new administration of New Zealand however announced on 24th November 2023 that they will repeal this planned legislation. ITPAC's recommendation therefore is that we should follow their lead and adhere to the principles of the plan outlined by the Minister above.

With regard to the position in the UK, the Government's own NHS Digital data¹¹ suggests that only as few as 2% of young people (aged below 18 years old) have ever even tried smoking, even occasionally. Smoking rates among young people are at an historic low. Given this fact, the Government could drive down smoking rates amongst young people even further by (i) concentrating on stronger enforcement against retailers who sell tobacco to minors, in conjunction with (ii) targeted education campaigns which are effective deterrents to prevent young people from initiation.

An additional, and major, unintended consequence of these measures which cannot be ignored will be that a generational smoke-free ban will provide a further incentive for organised criminals to expand the existing underground illicit market which already accounts for a loss in revenues of £2.8 billion per annum. In addition to paying no revenues, the illicit market pays no regard to the crucial health warnings and quality control with which legal UK suppliers comply, and thereby severely undermines legitimate importers' and retailers' businesses. By association with this, these measures will present massive challenges to all law enforcement departments which are currently overworked and underfunded. Please refer to the latest Co-op Research Report and British Retail Crime Survey (both attached) which both came out in the last fortnight and underline the growing impact of retail crime. Therefore, the introduction of a phased generational ban on the purchase of tobacco will only result in heaping more misery on retailers tasked with enforcing it.

A major proportion of turnover for these companies' business is generated from the importation and sale of traditional other tobacco products (OTPs) which comprise cigars, cigarillos, pipe tobacco and snuff. In this context we would like to make the following points:

- The very limited scale of these businesses' operations, and the specialist nature of the products they distribute, meant that their share of the total tobacco market in the UK in 2022 continues to result in a statistically insignificant percentage.
- OTP usage is extremely limited, and they are certainly not used as an 'alternative' to cigarettes for reasons of cost and availability in the market.

Historically, the UK Government's initiatives to prevent, reduce and eliminate the consumption of tobacco products have largely been concerned in practice with the promotion and use of cigarettes and hand-rolling tobacco, the combination of which account for the vast majority of tobacco products consumed in Great Britain. In many instances, the introduction of policy measures has by default been extended to OTPs. This has often been the case despite a lack of evidence regarding the degree to which, if any, the inclusion of OTPs would further the Government's stated policy objectives.

More recently, however, the Government has recognized that OTPs comprise a category of products that are distinct and unique from cigarettes and hand-rolling tobacco in terms of their market structure, distribution networks, the profile of consumers they attract, their use patterns and addictive potential. As a result, OTPs have been subject to *differential treatment* with respect to measures such as the UK's standardized packing regulations, health warning requirements and the tobacco track and trace regime. Such an approach is consistent with sound, evidence-based policy making and the present Government's commitment to the same.

It was thus with considerable surprise and dismay that our Members were to learn that OTP's are included in the Government's proposal to ban the sale of tobacco products to anyone born on or after January 1, 2009. Given the Government's stated rationale for the policy – to prevent young people from starting to smoke in order to protect them from the harms of smoking as they grow older – as well as the evidence presented in support of the measure, it is readily apparent that the inclusion of OTPs will make no measurable contribution to furthering the government's policy objectives.

Considering the devastating effect the inclusion of OTPs would have on UK small and medium size businesses, including specialist tobacconists, which make up a significant proportion of the OTP sector, we would urge the Government to give immediate reconsideration to the inclusion of OTPs. It is our view that policy development for tobacco products should continue to recognize the differences that exist between these categories of products, as has more recently been the case. This policy will wipe the good will of all these companies and they will go out of business if they don't move to set their operations outside the UK.

In conclusion, we fully support the Government's dedication to public health, and trust that, in your influential position, you will give careful consideration to the legal, economic and practical implications of the proposed Smoke-Free Generation ban, and also the points we have outlined regarding OTPs.

ITPAC The Imported Tobacco
Products Advisory Council

9 Cavendish Court
86 Waldegrave Road
Teddington TW11 8LN



Thank you for your time and consideration. We look forward very much to receiving your views on this matter.

Yours sincerely,

