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Wednesday 23 March 2022

Dear Mr Khan,

Following your '[Call Out' tweet on 18 February](#), that you were keen to hear views on what can be done to support current smokers to quit, and to stop people taking up smoking, as part of your independent review into tobacco control, I had hoped that we would have an opportunity to meet as part of your evidence gathering and discuss what important practical steps could be undertaken to reduce harm from tobacco.

I wrote to you on 22 February and 7 March enquiring about meeting, but regrettably, I have not received a response from your team. You will understand that I am still very keen to share a number of suggestions with you, which I believe could help contribute to your policy objective.

#### **Consistent decline in smoking rates**

There is a long-term trend of smoking rates in England, among all age groups, declining consistently, year-on-year, over the last thirty years. According to Office of National Statistics (ONS) overall smoking rates in England have reduced significantly from 20% in 2011 to 12% in 2020<sup>1</sup>.

This is especially the case with young people and children, where Government data reinforce the fact that smoking rates continue to decline across these age groups. The ONS points to a major reduction in smoking rates among young people (16-24 years old) with 16% smoking in 2020, compared to 32% in 2000<sup>2</sup>. This is the lowest smoking rate across all age groups in England. NHS data also underlines the dramatic decline in the number of children (11-15 years old) who are regular smokers (classed as smoking at least one cigarette per week), from smoking in England from 10% 2000 to 2% in 2018<sup>3</sup>.

#### **What action can Government take**

Adult smokers are fully aware of risks associated with smoking. It would be impossible not to be given the high impact visual photographic and written health warnings contained on every plain packaged pack of cigarettes or hand rolling tobacco.

The two most effective measures the Government can deploy to raise awareness on the risks of smoking are to continue investment in public information campaigns and personal, social, health and economic (PSHE) education programmes, which are by far the most effective means of raising awareness of the impact of smoking.

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<sup>1</sup> [ONS Adult smoking habits in England – December 2021](#)

<sup>2</sup> [Ibid.](#)

<sup>3</sup> [NHS Digital: Smoking, Drinking and Drug Use among Young People in England 2018 – August 2019](#)

Secondly, the Government should also highlight the widespread availability of alternative smoke-free nicotine products (e.g. e-cigarettes, nicotine pouches and heated tobacco products).

### **Tobacco control proposals**

During the course of the Health & Care Bill passing through Parliament, there have been a number of tobacco control measures tabled as amendments. All of these have been dismissed by the Government for varying reasons, however there are two that remain a focus for some, which we have addressed below:

- **Age of sale**

It was reported in *The Times*<sup>4</sup> on 12 March, that a proposal under consideration as part of your review was to raise the age of sale, citing New Zealand as an example.

At the standard minimum purchase age (18 in the UK), adults should be free to access a legal product, as is the case with purchasing alcohol or a national lottery ticket. Banning a category of adults from purchasing tobacco products (which is what New Zealand is seeking to do to any adults born after 2008), or indeed simply raising the age of sale, will only incentivise consumers to shift from purchasing legal, tax-paid products, to unregulated and untaxed products from illegal channels.

On a practical level, the age at which people can access restricted products such as alcohol, tobacco, vaping, betting and the National Lottery has been standardised in the UK at 18 and over. Changing this will make enforcement and education much more difficult and present additional challenges for retailers.

Moving away from this newly aligned standard does not make sense.

However, despite the falling smoking rates in minors, stronger enforcement action against those retailers who sell tobacco products to minors is needed, as well as a sustained and co-ordinated effort to commission more test purchasing of retailers to ensure that a much higher number of retailers are asking for the relevant age-appropriate photo ID and following the 'Challenge-25' best-practice approach. There can be no doubt that preventing under-age sales is the most effective deterrent to prevent young people from taking up smoking.

- **A levy**

As was evident last week, in the Health & Care Bill, as it progressed through the House of Lords, a group of peers continue to press the Government to pursue an anti-business policy of taxing the profits of individual companies (which are already highly taxed and highly regulated) in an effort to raise more money from the industry.

It's worth noting that the Government already has two very effective tools to raise money from tobacco manufacturers through Excise and VAT, which according to the most recent HMRC figures, raised £12.5 billion in 2020. Further tax increases on individual companies will only reduce levels of investment that these companies are able to channel into developing alternative smoke-free nicotine products (e-cigarettes, nicotine pouches and heated tobacco products), which have a crucial role to play in helping consumers give up smoking altogether.

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<sup>4</sup> The Times, 12 March 2022 ("Under-25s could be banned from buying cigarettes")

In response to the tabling of the amendments to the Health & Care Bill, the Health Minister Earl Howe was clear in his explanation that “... *the tobacco industry is already required to make a significant contribution to public finances through tobacco duty, VAT and corporation tax. Through these finances we are able to fund local authority stop-smoking services through the public health grant and provide extra resources as part of the NHS long-term plan commitment to help smokers quit. As part of the annual Budget process, Her Majesty’s Treasury will continue the policy of using tax to raise revenues and encourage cessation through continuing with above-RPI duty increases on tobacco products. It is a proven and effective revenue-raising system.*”<sup>5</sup>

The Minister continued that it was the Government’s “*strong preference to continue with high tobacco taxation and excise as the best means and the most efficient process through which to generate revenue that can be put back into public services.*”<sup>6</sup>

### **The illegal tobacco market**

Illicit trade is a key component of any tobacco control review and recommendations must consider the corresponding impact on the illegal tobacco market.

According to the most recent HMRC Tax Gap data, illegal smuggling and consumption of illicit tobacco cost the Government £2.3 billion in lost revenue 2019-20. In total, the Government has lost close to £49 billion in revenue since 2000, that equates to £2.45 billion in lost tax every year, which could be spent on vital public services.

As noted above in Earl Howe’s contribution in the recent House of Lords debate, high taxes on tobacco products have been used for many years to discourage consumption. However, this has led to a high level of illicit trade, readily acknowledged by the Government. If the Government believes that high taxes are effective in addressing smoking, it needs to properly tackle the illegal tobacco market.

According to TMA research, undertaken annually, in 2021, 71%<sup>7</sup> of those surveyed (from a sample audience of 12,000 smokers) stated that they had bought non-duty paid tobacco products (tobacco not subject to UK tax) at least once in the last year. While this is a reduction from a high point of 78% in 2019<sup>8</sup>, it still remains an extraordinarily high figure.

Why is the illegal tobacco market so persistent? In summary, there are three principal reasons.

- 1) There is massive variation in the price between legitimate and illicit tobacco products, and every year that price gap widens, the more attractive illicit tobacco products become to consumers. This is especially alarming, as counterfeit products will be unregulated and like many illicit tobacco products, have previously been found to contain asbestos, mould, dust, dead flies and rat droppings<sup>9</sup>.
- 2) There remains an entrenched perception among many consumers that it is ‘acceptable’ to trade or buy illicit tobacco. If it is viewed as crime, it is viewed as a ‘victimless’ crime.

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<sup>5</sup> [Hansard 16 March 2022](#)

<sup>6</sup> Ibid.

<sup>7</sup> TMA Anti-Illicit Trade Survey 2021: Smokers’ attitudes, awareness and understanding of illegal tobacco

<sup>8</sup> TMA Anti-Illicit Trade Survey 2019: Smokers’ attitudes, awareness and understanding of illegal tobacco

<sup>9</sup> Local Government Association - Toxic fake cigarettes filled with asbestos and excrement seized by councils (2014)

This perception could not be further from reality and would shock consumers if there were aware of facts. Illicit tobacco is a growing source of funding for organised criminals, bringing financial pain and harm to local communities across the country.

- 3) There is widespread availability of illicit tobacco products with many moving their operations online and capitalising on the platforms that social media provides to advertise and sell illicit product. In the same recent TMA research 19% of respondents claimed to purchase tobacco through social media or websites advertising cheap tobacco – this compares to 4%<sup>10</sup> before the pandemic<sup>11</sup>.

The pandemic has shown however, through restrictions on travel and border closures, that stronger enforcement measures at the border and across the country can deliver significant financial benefits.

In the last two calendar years, the Government has received additional tax revenue from tobacco products of £3.4 billion (£2.8 billion excise + £0.6 billion VAT), as adult smokers have returned to the UK to purchase their duty paid products. It is important to note that this is not an increase in the smoking rates, just a shift in where adult smokers are purchasing their products.

To address the challenge of illicit tobacco, I believe that 'we', meaning Government, law enforcement, industry and retail, must redouble our efforts and take the fight to those who bring about such misery through trading and supplying illicit tobacco, and this is why the TMA supports the Government in bringing forward new measures<sup>12</sup> to increase sanctions on those who sell or distribute illicit tobacco.

I hope you find these suggestions useful, and I would be very happy to discuss any of these topics in more detail with you if that would be helpful.

Yours sincerely,



TMA

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<sup>10</sup> TMA Anti-Illicit Trade Survey 2021: Smokers' attitudes, awareness and understanding of illegal tobacco

<sup>11</sup> Ibid.

<sup>12</sup> [HMRC consultation \('Sanctions to tackle tobacco duty evasion'\) July 2021](#)