British American Tobacco
(New Zealand) Limited

A submission to
Parliament’s Māori Affairs Committee’s Inquiry
into
the tobacco industry in Aotearoa and the consequences of
tobacco use for Māori

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1.0 Executive summary

1.1 British American Tobacco (New Zealand) Limited (BATNZ) is the biggest tobacco company in New Zealand, supplying about 75 per cent of the tobacco products market.

1.2 While BATNZ represents a significant portion of the industry, it does not speak for the industry.

1.3 BATNZ has consistently strived for a co-operative working relationship with the Government, and we remain willing to engage. We suggest the best way forward is for Government, public health authorities and the tobacco industry to work together to seek to establish constructive strategies to address public health concerns while maintaining individual adult choice.

1.4 BATNZ does not promote and will not promote tobacco use among Māori. BATNZ manufactures a legal product which we make available to retailers for sale to people aged 18 and over who choose to smoke.

1.5 The tobacco industry has evolved over a number of decades, reflecting society’s view of tobacco products and the manner in which they have been controlled by governments over time. This includes the Department of Agriculture Act 1953 establishing the Department of Agriculture whose principal function was to promote and encourage the development, marketing and sale of primary products, including tobacco.

1.6 BATNZ has operated within the legal framework established by the Parliament of the day. We have complied with the provisions of the Smoke-free Environments Act 1990 (SFEA), which prohibits any form of tobacco advertising and sponsorship, and previous government regulations and voluntary agreements.
1.7 BATNZ acknowledges that smoking prevalence is significantly higher for Māori than for non-Māori and as a result tobacco use is a major health concern for Māori in particular.\textsuperscript{1} We expect the Committee will be hearing from a number of health and other experts who are qualified to comment on matters concerning Māori.

1.8 However, we have some suggested initiatives that, we believe, if implemented may have an impact on the smoking prevalence of all New Zealanders, particularly youth. These initiatives are:

- Increasing emphasis on youth smoking prevention programmes including specific education emphasising the prohibition of on-supply of tobacco to youth.
- Strengthening the current licensing scheme for retailers to encourage greater SFEA compliance and improve enforcement.
- Increasing identification and punishment for retailers who break the law with particular emphasis on reducing access by youth to tobacco products.
- Clamping down on the illegal trade in tobacco products, and institute a licensing scheme for all tobacco growers.
- Setting a minimum retail price to constrain access to tobacco products, particularly by youth.

1.9 We propose these initiatives for consideration by the Māori Affairs Committee and would welcome the opportunity to work co-operatively with the Government and other stakeholders in relation to these initiatives.

\textsuperscript{1} Ministry of Health Report on Māori Smoking for Māori Affairs Select Committee, (June 2009), p 3
2.0 Introduction

2.1 BATNZ is a wholly owned subsidiary of British American Tobacco Australasia which is part of the London based British American Tobacco Group. BATNZ was created in September 1999 with the merger of Rothmans of Pall Mall (NZ) Ltd and W D and H O Wills (New Zealand) Ltd. We wish to appear before the Committee to speak to our submission.

2.2 We note the inquiry’s terms of reference are to inquire into:

1. The historical actions of the tobacco industry to promote tobacco use among Māori.

2. The impact of tobacco use on the health, economic, social and cultural wellbeing of Māori.

3. The impact of tobacco use on Māori development, aspirations and opportunities.

4. What benefits may have accrued to Māori from tobacco use.

5. What policy and legislative measures may be necessary to address the findings of the inquiry.

2.3 It is important that we are absolutely clear that while the purpose of the inquiry and its terms of reference refer to the tobacco industry, this submission is on behalf of BATNZ not the tobacco industry.

2.4 We should also note that we have not commented on the second, third and fourth points of the Inquiry’s terms of reference. While we acknowledge the statistics confirm that smoking prevalence is
significantly higher for Māori than non-Māori\(^2\), we expect the Committee will be hearing from a number of health and other experts who are qualified to comment on why that might be the case.

2.5 We want to be equally clear on another important point. BATNZ does not promote and will not promote tobacco use among Māori. As committee members will be well aware, there have been restrictions on the promotion of tobacco products since the 1960s and for the past 20 years the Smoke-free Environments Act 1990 (SFEA) has specifically prohibited sponsorship and the advertising of tobacco products in New Zealand. We have complied with these restrictions.

2.6 BATNZ manufactures a legal product which we make available to retailers to sell to those people age 18 and over who choose to smoke.

2.7 Smokers are well aware of the serious health risks associated with smoking. Tobacco products have carried a health warning for the past 35 years and Ministry of Health research demonstrates 97 percent awareness by daily smokers of the on pack warnings.\(^3\) In addition, 97.3 per cent of current smokers reported having seen or heard anti-smoking messages in the six months preceding the research: the most common place for them to see these messages was on television.\(^4\)

2.8 However, smoking can be hard to quit. We believe it is important that smokers who decide to quit realise they are able to quit, provided they have the motivation to quit and the belief they will succeed. Millions of

\(^2\) Ministry of Health Report on Māori Smoking for Māori Affairs Select Committee, (June 2009), p 3

\(^3\) Professor J Hoek, Professor P Gendall, “Pictorial health warnings: A review of research evidence Research Report prepared for Ministry of Health”, (April, 2005), p 40

\(^4\) Ministry of Health, 2008 New Zealand Tobacco Use Survey: Quitting Results
people the world over have stopped smoking successfully. According to Tobacco Trends 2008, 21.4 percent of people in New Zealand currently identify themselves as ex-smokers. Among Māori, 23.3 percent of people currently identify themselves as ex-smokers.

2.9 However, we have some suggested initiatives that, if implemented, may have an impact on the smoking prevalence of all New Zealanders, with particular emphasis on youth smoking.

2.10 Our submission covers:

- The Past: A brief history of the tobacco industry in New Zealand.
- The Future: Policy initiatives that may reduce smoking rates.

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5 Ministry of Health, “Tobacco Trends 2008: A brief update of tobacco use in New Zealand” appendix 1

6 Ibid
3.0 The past: A brief history of the tobacco industry in New Zealand

3.1 In her 1997 history of tobacco growing in New Zealand, Patricia O’Shea records that tobacco and tobacco seeds arrived in New Zealand with the European sealers and whalers in the early nineteenth century, in essence transporting a 400 year-old social and recreational practice from Europe to this country.

3.2 For the next 40 years or so, both European and Māori grew tobacco for their own use. By the 1870s, tobacco was being cultivated on a commercial scale around New Zealand, including the Hawke’s Bay and, later, Auckland. Around 50 years later, larger scale tobacco farming began around Motueka at the top of the South Island.

3.3 In the Official History of New Zealand in the Second World War, J.V.T. Baker records that World War II saw tobacco consumption increasing over a very short period. At this time, a distinct New Zealand tobacco industry began to emerge, taking over from the overseas suppliers of manufactured tobacco and cigarettes.

3.4 Successive governments encouraged the manufacture and marketing of New Zealand grown tobacco as an efficient industry within the economy. For example, the Department of Agriculture Act 1953 established the Department of Agriculture. The Act gave the Department two principal functions. The first was to promote and encourage the development of all

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phases of the agricultural, pastoral and horticultural industries with a view to maintaining and improving the quality of the products derived from those industries and increasing production of those products\(^\text{10}\). The second principal function was to promote and encourage the marketing and sale of those products.\(^\text{11}\) The tobacco production industry was specifically cited as one of the primary industries covered by the Act. This was the law until the Act was repealed 37 years later in 1990.

3.5 The New Zealand government of the time actively encouraged the expansion of what it officially categorised as an industry important to the war effort. It also protected the local tobacco growing industry by regulating the amount of New Zealand grown tobacco required in tobacco products manufactured and sold in New Zealand.\(^\text{12}\)

3.6 Over the next 40 years, the debate around tobacco intensified as successive governments sought to balance the tension between the growing health concerns and the efforts of the tobacco growers to retain their quota protected market.

3.7 Finally, in the 1980s the growing industry was deregulated. Declining tobacco consumption and lower overseas leaf prices led to W D and H O Wills closing its 60-year-old packing house in Motueka in 1989, and Rothmans withdrawing from the New Zealand tobacco-growing market in 1995. The last contracted Motueka growing season was 1994-1995.

3.8 Regulation of the tobacco industry has been increasing since the 1960’s. Examples include:

\(^{10}\) Section 4(a) Department of Agriculture Act 1953

\(^{11}\) Section 4(b) Department of Agriculture Act 1953

• Advertising restrictions on television and radio from 1965.
• Government warnings on every cigarette packet from 1974.
• Restrictions on sponsorship activities from 1978.
• Tar and Nicotine levels published and monitored from 1979.
• Passing of comprehensive anti-smoking legislation in the form of the Smoke-free Environments Act in 1990.

A detailed regulatory history is attached as Appendix I.

3.9 This brief history provides some context to the tobacco industry in New Zealand. The tobacco industry grew and changed to reflect the changing views of governments and society over almost two centuries.
4.0 The present: The Smoke-free Environments Act 1990

4.1 The Smoke-free Environments Act 1990 (SFEA) was passed nearly 20 years ago in August 1990. The SFEA created one of the world’s most regulated environments for the sale and distribution of tobacco products.

4.2 According to Ministry of Social Development statistics, smoking prevalence, or the percentage of the population over 15 years consuming tobacco products, has declined from around 30 percent in 1986 to 23.9 percent in 2008\(^{13}\). The Ministry of Social Development gives figures of 49.3 percent prevalence among Māori in 2000 and 45.7 percent in 2008.

4.3 Those who continue to smoke, have significantly reduced their per head consumption. According to Ministry of Social Development statistics since 1991, tobacco consumption has decreased by 42 per cent. Over this period, the drop in tobacco consumption has also been more rapid than the drop in smoking prevalence.\(^{14}\)

4.4 By the implementation of the SFEA, the Government has put in place a key regulatory tool in the task of reducing tobacco consumption in New Zealand. The statistics clearly demonstrate, however, that the SFEA has had a greater impact on non-Māori than Māori smoking prevalence.

4.5 The prescriptive nature of the SFEA provides BATNZ with a regulatory framework within which to operate. As we stated in the introduction to this submission, BATNZ complies, and has complied, with the laws of New Zealand.

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\(^{14}\) Ibid
Working with retailers

4.6 We view retail compliance as a serious matter and we take steps to ensure retailers we supply comply with the SFEA. Our trading terms with approximately 2400 retailers throughout New Zealand specifically require retailers to comply with the SFEA. In addition, it is a condition of opening an account with us that every retailer warrants they will comply with all legislation.

4.7 Our trade representatives’ responsibilities include retailer education about retailers’ obligations under the SFEA. Retailers are given comprehensive written information presented in an understandable and compelling manner. We have included examples of this for members’ information as Appendix II of this submission. We communicate in a number of languages reflecting the diversity of the retail sector, including Mandarin, Hindi, Korean and English. We brief retailers when there are legislative changes that affect them and will continue to support retailers with education in the future.

4.8 Throughout the year when one of BATNZ’s 46 trade representatives calls on retailers, they regularly undertake a legislation compliance inspection to assist retailers in meeting their obligations under the law.

4.9 This is in addition to compliance checks carried out by Smoke-free officers who are appointed by the Director-General of Health to enforce the provisions of Part I of the Smoke-free Environments Act.

Stopping youth from smoking

4.10 We are very clear on the issue of smoking and youth. We believe that children should not smoke and that tobacco products should not be sold to people under the age of 18. We fully support the legal minimum age for buying tobacco products and penalties for retailers that break the law.
4.11 We work hard to make sure retailers understand and comply with the law. We tell retailers that, where they are in doubt about a customer’s age, they should ask the customer their age. If the retailer is unsatisfied with the answer, they should ask for photo verification of the customer’s age (like a driver’s licence). If verification is not forthcoming, or if a retailer doubts the authenticity of the verification, we advise the retailer not to sell tobacco products to that person.

4.12 We produce retailer information which our trade representatives distribute to our retail distributors. The information includes material that is designed to achieve the following:

- Remind retailer’s employees of their obligations under the SFEA.
- Notify customers that it is against the law for retailers to sell tobacco products to people under the age of 18.
- Advise customers that they may be asked to produce photo identification verifying their age.

4.13 BATNZ supports retailer education programmes that play an important part in making sure tobacco products are not sold to people under the age of 18.

*Continue working with the Ministry of Health*

4.14 BATNZ meets regularly with the Ministry of Health to discuss compliance matters and ways in which retailers can improve compliance, particularly in the area of youth smoking prevention.

4.15 We have actively supported the Ministry of Health’s retail education objectives with the Ministry’s and our own educational material.
5.0 The future: Policy initiatives that could have an impact on smoking rates in New Zealand

5.1 This section discusses possible initiatives that may reduce smoking prevalence, with particular emphasis on youth. These initiatives include:

- Increasing emphasis on youth smoking prevention programmes including specific education emphasising the prohibition of on-supply of tobacco to youth.
- Strengthening the current licensing scheme for retailers.
- Increasing identification and punishment of retailers who break the law.
- Clamping down on the illicit trade in tobacco products.
- Setting a minimum retail price for tobacco products.

Youth smoking prevention

5.2 We do not market our products to children and we firmly believe children should not smoke. We agree with the provisions of the SFEA that state that retailers can not supply tobacco products to people under the age of 18.

5.3 Youth smoking rates continue to decline. A survey showed that the percentage of 14-15 year olds who smoked at least monthly has fallen from 28.6 percent in 1999 to 12 percent in 2008\textsuperscript{15}. Among Māori the percentage of 14-15 year olds who smoked at least monthly was, for girls, 50.9 percent in 1999 and 31.4 percent in 2008, and for boys – 33.6 percent in 1999 and 17.8 percent in 2008\textsuperscript{16}. However, the same survey showed that the rate of decline has slowed.


\textsuperscript{16} ibid
5.4 A number of research studies have shown that the role of peers and family, including parental example, is a key influence in youth uptake. For example, a study investigating whether parental smoking and other parental behaviours are risk factors for smoking in 14 and 15 year old children concluded that parental behaviour is a key determinant of smoking by New Zealand adolescents.\(^\text{17}\) A 2007 study also showed that youth smoking was influenced by the smoking habits of their parents and that one way of preventing youth from smoking was to change the behaviour of their parents.\(^\text{18}\)

5.5 Furthermore, approximately 60 percent of youth smokers purchase cigarettes themselves from a store,\(^\text{19}\) so it is clear more needs to be done in the retail area to prevent youth smoking.

5.6 As addressed in more detail further in this submission, we suggest stronger penalties for supplying tobacco products to people under the age of 18, retailer licensing and a minimum retail price as ways in which the retail side of the equation could be strengthened.

5.7 However, access to tobacco by youth, particularly Māori, is not limited to retail purchase. Around 11.4 percent of non-Māori youth obtain tobacco from family members with this figure rising to nearly 50.5 percent for Māori youth.\(^\text{20}\)


\(^{18}\) R Scragg, M Glover, “Parental and adolescent smoking: does the association vary with gender and ethnicity?”, (30 January 2009)


\(^{20}\) Ministry of Health Report on Māori Smoking for Māori Affairs Select Committee, (June 2009), p 9
5.8 It is against the law to on-supply people under the age of 18 in a public place with tobacco. Yet there appears to be very low awareness of this provision. We believe a greater emphasis should be placed on government education programmes aimed at children and their families, stressing that children should not smoke and that family members should not supply other family members under the age of 18 with tobacco products.

Licensing retailers

5.9 There is currently a negative licensing scheme in operation in New Zealand for retailers selling tobacco. Typically, a negative scheme is one in which no license or permit is required before commencing operations, but a business committing serious breaches of the required standards may be barred from continuing that activity.

5.10 Improving the current licensing arrangements for retailers who sell tobacco products would add strength to the Ministry’s ability to enforce compliance with the SFEA, particularly in the area of preventing sales to people under 18 or participation in the illegal trade in tobacco products.

5.11 We favour a strengthening of the current licensing arrangements with:

- The addition of a ‘notification’ requirement, which would require retailers to notify the Ministry of Health that they intend to sell tobacco. There would be no licence fees for retailers. However, we suggest that the retailer and their staff would have to demonstrate an understanding of the SFEA and their obligations when selling tobacco.

- The responsibility for monitoring and enforcement to rest with the Ministry of Health with enforcement to be made simpler by giving the Ministry the option, where they consider it appropriate, to issue infringement notices for certain offences under the SFEA.
5.12 Independent convenience retailers are often small businesses. Such independent retailers represent approximately 49 per cent of the retail sector. We consider this strengthened licensing arrangement to be the best approach as it does not place financial burden on smaller retailers yet provides the Ministry with more enforcement ‘teeth’ through access to better retailer information, monitoring and enforcement responsibility.

5.13 However, we appreciate that this is not a simple proposal. A number of fundamental issues would need to be resolved in consultation with retailers, manufacturers, importers, wholesalers and other stakeholders, including:

- Agreed aims and objectives for the improved scheme (i.e. it is strictly for SFEA compliance and that being included on the register of retailers is subject only to an understanding of the SFEA as is necessary to sell tobacco).
- The improved scheme should not place a cost burden on the already struggling retail industry and therefore it should carry no license fee with the exception that failure to ‘notify’ could incur a penalty.

5.14 These matters may be difficult to resolve, but they are not impossible to resolve. The result would be a significant improvement in the Ministry’s ability to enforce the provisions of the SFEA while maintaining a workable business environment for smaller retailers, and reducing youth access to tobacco at retail.

Identifying and punishing retailers who break the law

5.15 Retailers can be fined and, under s.30AB of the SFEA, repeat offenders may be ordered by the Court not to sell tobacco products for up to three months.
5.16 Yet despite these legislative sanctions, approximately 60 percent of current youth smokers aged 15-17 say they purchase tobacco products from retail outlets.\(^{21}\)

5.17 While some retailers may make a genuine judgment that a customer is aged 18 or over (and, thus, not ask for proof of age and identity) and others may feel intimidated and pressured into a sale, the fact that more than half of the country’s under age smokers say they purchase tobacco products from retailers suggests that, in this area anyway, the legislation is not working.

5.18 The Ministry has acknowledged the difficulty in imposing sanctions against repeat offenders to prevent them from selling tobacco products and that the number of successful prosecutions against retailers suggests the regime is not working in practice.

5.19 We support the following initiatives to seek to address youth access to tobacco products:

- The Ministry of Health increasing the resources put into educating retailers on the law and further increasing controlled purchase operations.
- Increasing the financial penalty for retailers who flout the law by selling to under age people.
- Amending the SFEA to provide for a strengthening of the current negative licensing scheme as outlined above.
- Amending the SFEA to provide for mandatory photo identification checks for the purchase of tobacco at retail.

Clamping down on the illicit trade in tobacco products

5.20 The availability of low cost illegal tobacco presents significant problems for society in four areas:

- Funding organised criminal activities.
- Potentially increasing tobacco related health risks.
- Undermining government policy of keeping tobacco prices high in order to reduce affordability, particularly for youth smokers.
- Lack of government tobacco control.

An international problem

5.21 The sale and use of illegal tobacco is a global problem, with the trade in illegal cigarettes estimated to be 11 percent of global cigarette consumption.

5.22 Recently, the illicit trade problem has increased markedly in Hong Kong. This was a result of tobacco taxation increases of 50 percent in the Government’s 2009 budget. Preliminary results suggest that around half of the tobacco products market in Hong Kong is made up of products upon which duty is not paid.\(^\text{22}\)

5.23 Evidence from the United States suggests that the lucrative illegal tobacco market has also begun to rival drug trafficking as a relatively lower risk funding source for terrorist groups\(^\text{23}\).

5.24 In Australia, the illegal trade also poses significant costs to the community as a result of its links to organised crime. The Australian Tax Office (ATO) suggests that ‘the illegal tobacco market is organised by

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\(^{22}\) Tobacco Association of Hong Kong “Leave Behind Document on Tobacco Excise and Illicit Trade” (October 2009)

\(^{23}\) PricewaterhouseCoopers, Executive Summary, Illegal Tobacco Trade; Costing Australia millions and Strategies to curb the supply and use of illegal tobacco products, (August 2007), p 24
individuals actively involved in other forms of criminality, for example; drugs, money laundering and identity fraud.\(^{24}\)

5.25 In Australia, significant quantities of tobacco leaf ends up on the black market, with the ATO estimating that “chop-chop” accounts for a loss to the Federal Government of more than A$200 million dollars per annum.\(^{25}\) The name “chop-chop” refers to illegally home grown or produced unbranded tobacco and is derived from the fact that this tobacco is often produced in amateur conditions and roughly cut into fine strips.\(^{26}\) It is a term now commonly used in New Zealand.

5.26 There are potentially increased health risks from the consumption of illegally grown processed and sold tobacco products.\(^{27}\) The Australian Commonwealth Department of Health and Ageing has reported on this matter and in addition issued a fact sheet commenting on the fungal contamination found in “chop chop” tobacco.\(^{28}\) The fact sheet stated that “The very dense volume of fungal contamination found in our samples of “chop-chop” is alarming.”\(^{29}\)

\(^{24}\) PricewaterhouseCoopers, *Executive Summary, Illegal Tobacco Trade; Costing Australia millions and Strategies to curb the supply and use of illegal tobacco products*, (August 2007), p 23


\(^{26}\) Ibid

\(^{27}\) R Bittoun, E Tovey, PhD, L Lai, BSc, Hons, D Carter, PhD “Fungi in Homegrown Tobacco May Add to Smoking Hazards” (Part of the Poster Presentation category (number 243) at the Inaugural Oceania Tobacco Control Conference, NZ, (4-7 September 2007)


5.27 The 2007 PricewaterhouseCoopers report ‘Illegal Tobacco Trade: Costing Australia Millions’ (a report commissioned by British American Tobacco Australia), states “latest intelligence shows that the illegal tobacco market remains a serious problem in Australia, with an estimated 1.8 million kilograms of illegal tobacco in circulation in 2007. This is equivalent to 6.4 per cent of total cigarette consumption in Australia and represents taxation losses of around A$450million”\textsuperscript{30}.

The New Zealand Experience

5.28 New Zealand is not immune to illegal tobacco operators.

5.29 Our own investigations, which we have shared with Customs, point to an annual cultivation and harvesting of approximately 50 acres of land dedicated to the growing of tobacco leaf. Although tobacco growing is not illegal in New Zealand, there are restrictions on the manufacturing of tobacco contained in the Customs and Excise Act 1996 – essentially restricting the manufacture of tobacco to licensed manufacturing areas where excise duty is payable. There is an exemption for tobacco manufactured for personal use provided the individual concerned is 18 years old or older, the manufacturing takes place within the individual’s private house, the tobacco was grown on the land on which the individual’s private house is located and was not grown for sale to another person, and the amount of tobacco manufactured does not exceed 15 kilograms. Our investigations strongly indicate that this large scale growing avoids the payment of excise duties, is commercial and is certainly not entirely for personal use.

5.30 We believe that the majority of this New Zealand grown tobacco leaf ends up as “chop-chop” and is sold on the black market. Based on an estimated total roll-your-own (loose tobacco) market size of about 859

\footnotesize\textsuperscript{30} PricewaterhouseCoopers, \textit{Executive Summary, Illegal Tobacco Trade; Costing Australia millions and Strategies to curb the supply and use of illegal tobacco products}, (August 2007)
tonnes in 2009, which includes an estimated 50 tonnes of illegal tobacco, this represents 5.8 per cent of the roll-your-own market, more than the market share of some legitimate tobacco operators in New Zealand.31

5.31 Black market products are significantly cheaper due to the level of excise payable for legitimate products which in New Zealand is approximately 70 per cent, thereby undermining the public health goal of reducing smoking prevalence through price. It is also hard to envisage traders on the black market asking for proof of identity and age before they make a sale.

5.32 We suggest the Government can take three actions to limit the illegal trade in tobacco products. They are:

- Increasing enforcement resources to clamp down on the illicit trade.
- Introducing a licensing scheme for all growers of tobacco leaf.
- Introducing a strengthened licensing scheme for all tobacco retailers.

5.33 The Customs and Excise Amendment (No 3) Act 2008 sets a generous 15 kilograms of dried leaf per annum for personal use, sufficient for around 60 cigarettes a day. We support introducing a grower’s license for anyone wanting to produce more than 15 kilograms of dried leaf a year. We note there is currently a licensing system in Australia.

5.34 We believe such a licensing scheme for growers would allow Police and Customs to exercise a greater degree of control over the tobacco supply chain, thereby reducing the potential for criminal activity, and its consequent negative effect on cigarette price and availability in connection with youth smoking rates.

31 British American Tobacco estimate of 50 acres equating to 50 tonnes
Setting a minimum retail price

5.35 A ‘minimum retail price’ refers to a legislated lowest price per unit. It means a retailer must not charge the end consumer less than that price regardless of its own costs or margins. In the case of tobacco a minimum retail price could be applied to cigarettes as a per cigarette unit and to roll-your-own (loose tobacco) as a per gram unit.

5.36 With the combination of steady cigarette price increases and a global economic recession, over the past decade consumers have switched to cheaper cigarettes which currently cost less than 49 cents per cigarette. The ‘budget’ cigarette category has steadily grown over the past few years and now represents approximately 12.9 per cent of the market. This is a sizeable increase from the 4.2 per cent of the market which it represented in 2003.32

5.37 In Australia, due to the availability of cheap cigarettes only 7 per cent of smokers now claim that the cost of cigarettes is the main reason for quitting smoking.33 This statistic suggests that the existence of cheap cigarettes, and black market cigarettes has reduced the effectiveness of excise as a means of motivating people to quit.

5.38 In mid 2009, the Associate Minister of Health, Hon Tariana Turia, expressed concern about the practice of tobacco companies (including BATNZ), of reducing prices on a number of brands.34

32 British American Tobacco statistics
33 Cancer Institute NSW Monograph: “NSW smokers’ attitudes and beliefs, changes over three years”, (February 2008), p 35
34 Mark Hotton, “No action against tobacco companies” The Southland Times, 12 August 2009
5.39 The Ministry of Health expressed concern that this practice could make tobacco more affordable for consumers, although they subsequently acknowledged that these pricing actions had not been in breach of the SFEA.\(^{35}\)

5.40 However, setting a minimum price will prevent price reductions that the Minister believes makes tobacco products more accessible to youth at the lower end of the market. A minimum retail price reduces the opportunity for a wide range of price points including a ‘budget’ category.

5.41 Public health groups maintain that, as a group, young people are price sensitive.\(^{36}\) Assuming this is true, and considering a significant percentage of youth purchase tobacco from retailers,\(^{37}\) establishing a minimum retail price may help to reduce smoking uptake among youth.

5.42 A strong enforcement element would be an essential part of a minimum retail price structure. This would be even more important should a retail display ban be introduced in New Zealand. As a total retail display ban will make it easier for unscrupulous retailers to sell illegal tobacco, as both legal and illegal product alike will no longer be visible.

5.43 Although this is a complex area of legislation, some countries, most recently Malaysia in 2009, have instituted a minimum retail pricing regime for tobacco products.\(^{38}\)

\(^{35}\) Mark Hotton, “No action against tobacco companies” *The Southland Times*, 12 August 2009


\(^{37}\) Ibid

\(^{38}\) “Minimum price for cigarettes from Jan 1,” The Star, 28 October 2009
6.0 Conclusion

6.1 As we stated at the beginning of this submission, we want to be very clear that BATNZ does not promote and will not promote tobacco use among Māori.

6.2 As committee members will be well aware, there have been restrictions on the promotion of tobacco products since the 1960s and, for the past 20 years, the Smoke-free Environments Act 1990 (SFEA) has prohibited the sponsorship and advertising of tobacco products in New Zealand. We have always complied with these restrictions.

6.3 This submission has identified five initiatives that may help reduce smoking prevalence and youth smoking initiation rates in New Zealand including Māori. These initiatives are:

- Increasing emphasis on youth smoking prevention programmes including specific education emphasising the prohibition of on-supply of tobacco to youth.
- Increasing identification and punishment for retailers who break the law with particular emphasis on reducing access by youth to tobacco products.
- Strengthening the current licensing scheme for retailers to encourage SFEA compliance and facilitate improved enforcement.
- Clamping down on the illegal trade in tobacco products, including a licensing scheme for all tobacco growers.
- Setting a minimum retail price to further constrain access to tobacco products, particularly by youth.
6.4 BATNZ has consistently strived for a co-operative working relationship with the Government, and we remain willing to engage. We suggest the best way forward is for Government, public health authorities and the tobacco industry to work together to seek to establish constructive strategies to address public health concerns while maintaining individual adult choice.

6.5 We propose these initiatives for consideration by the Māori Affairs Committee and reiterate our desire to engage with Government in respect of these initiatives.

Graeme Amey
Managing Director
British American Tobacco (New Zealand) Ltd

Attachments:

Appendix I
Appendix II