

## **ASH response to HMRC Consultation on Tobacco Illicit Trade Protocol – licensing of equipment and the supply chain**

**Closing date: 20<sup>th</sup> May 2016**

**Q.1 Are you: • a tobacco retailer • a tobacco wholesaler • a tobacco manufacturer • a manufacturer of tobacco equipment • a manufacturer of component parts of manufacturing equipment • an importer/exporter of tobacco products • an importer/exporter of tobacco manufacturing equipment • a transporter/broker/warehouse of tobacco or manufacturing equipment • a representative body – please specify • a public health body or group • Local Government (including Trading Standards) or other enforcement agency • a member of the public • Other – please specify**

Action on Smoking and Health (“ASH”) is a campaigning health charity that works to eliminate the harm caused by tobacco. It was established in 1971 by the Royal College of Physicians. The organisation is headed by its Chief Executive, Deborah Arnott, and is governed by a Board of Trustees. Its Patron is HRH the Duke of Gloucester. ASH provides the secretariat for the All Party Parliamentary Group on Smoking and Health. Its funding is provided principally by Cancer Research UK and the British Heart Foundation. ASH has also received specific project funding from the Department of Health for work on the implementation of Government tobacco policy.

We are aware of the damage that is done to the nation’s health and economy by the illicit trade, and view this consultation as a great opportunity for the UK government to make that trade untenable for those involved.

While any form of licensing will have an administrative impact upon those at all levels of the UK trade, the benefits to legitimate traders of significantly impeding the illegal trade should more than compensate for any minimal increase in cost and administrative burden.

It should be noted that the public overwhelmingly supports retail licensing for tobacco. Results from the latest Smoking Toolkit Study, conducted by Professor Robert West of University College London, show that 86% of the public support the proposition that tobacco outlets should be licensed, with only 5% opposed.<sup>1</sup>

There has been limited research conducted into the views of retailers on this issue. A 2014 study that conducted in-person interviews with 62 small tobacco retailers in disadvantaged areas of London and Newcastle found that around a third were against a retailer licensing system, while about 1 in 5 were supportive of a system and the rest had no opinion or didn’t know.<sup>2</sup>

The Tobacco Retailers Association (TRA) recently published data on retailer views.<sup>3</sup> Their survey polled 3200 of their members via email but it is unclear how many responded. Their survey finds that retailers cite tobacco as an important part of revenue and that most retailers believe losing the right to sell tobacco would be a threat to their business. The TRA go on to report that 93% of their sample “*are concerned about tobacco retail licensing*” however, they do not report how this question was framed, nor provide insights into what those concerns might be.

ASH also undertook research recently. This was undertaken by an independent provider who conducted a telephone survey of convenience retailers in March and April 2016 and spoke to 591 retailers. Retailers were asked if they felt tobacco licensing would be an effective measure to deter retailers from breaking the law – 69% agreed it would be, while 24% disagreed.

**Q.2 - If your business is in the trade of tobacco products or manufacturing equipment: a) Where are you based? • UK (please state whether Scotland, Northern Ireland, Wales or England) • Other EU • Non EU b) How many staff do you employ across the UK? • Fewer than 10 • 10 – 100 • 101 – 500 • More than 500 c) How many shops/branches do you have across the UK? d) What proportion of your overall sales relate to tobacco products? e) What is the approximate value of your tobacco product sales?**

Not applicable

**Q.3 Do you have any direct or indirect links to, or receive funding from, the tobacco industry?**

ASH has no direct or indirect links with the tobacco industry and receives no industry funding.

**Q.4 Do you think a 'licence' system is the most effective way of controlling the manufacture of tobacco manufacturing equipment? If not, do you have any alternative proposals?**

The need to exercise greater control over tobacco manufacturing equipment is recognised in the latest HMRC and Border Force strategy document on the illicit trade, *“From Leaf to Light”*. The strategy document states that: *“Raw, unprocessed tobacco, presents an increasing duty-evasion risk. It is being used in the UK to illegally manufacture tobacco products subject to excise duty”*.<sup>4</sup> The strategy proposes to: *“Improve coordination with partners in the UK and internationally to tackle the fraud at all points in the supply chain from production to retail”* and to *“Optimise the impact of the sanctions available across government and introduce new ones when needed”*.

ASH considers the licensing of tobacco manufacturing equipment to be essential to:

- Conform with Article 6 of the WHO Illicit Trade Protocol (ITP)
- To ensure the maximum impact on illicit trade of the tracking and tracing system for tobacco products required under Article 15 of the Tobacco Products Directive (TPD) and Article 8 of the ITP, and the security feature requirements of Article 16 of the TPD
- Ensure that relevant machinery does not enter the illicit production market, particularly in the form of second hand or reconditioned equipment.

For this purpose, we define tobacco manufacturing equipment as meaning any machinery or other equipment designed or modified specifically for the manufacture of a tobacco product.

We consider that the licensing requirement for manufacturers, exporters and importers should cover manufacturers, exporters and importers of any identifiable machine part which is unique to tobacco manufacturing machinery or equipment. In addition, consideration needs to be given to how to bring into scope of a licence regime suppliers of secondhand or reconditioned machinery and machine parts. Second hand machines can and do enter the illicit tobacco production market and have been subject to seizures by HMRC.<sup>5</sup>

The term *“producer”* as used in the EU General Product Safety Directive may be helpful.<sup>6</sup> It is defined in the Directive as:

(i) the manufacturer of the product, when he is established in the Community, and any other person presenting himself as the manufacturer by affixing to the product his name, trade mark or other distinctive mark, or the person who reconditions the product;

(ii) the manufacturer's representative, when the manufacturer is not established in the Community or, if there is no representative established in the Community, the importer of the product;

(iii) other professionals in the supply chain

The effect of point (iii) above is to include in the definition suppliers of machinery, specifically:

- Suppliers of new machines or components that they have not manufactured
- Suppliers of second hand or reconditioned machines.

We do not object, however, to HMRC's intention to exempt hand-operated machines used to roll single cigarettes from hand rolled tobacco from any licensing regime.

**Q5. If you are a manufacturer of equipment that can be used either directly or indirectly to manufacture tobacco or tobacco products, what type of equipment do you manufacture: 9 a) equipment that is directly used to manufacture tobacco or tobacco products? b) component part(s) for equipment that is specifically used to manufacture tobacco or tobacco products? c) equipment that is indirectly used by the tobacco industry, for example, the labelling and manufacturing of tobacco packaging?**

**Q6. If you have answered yes to question 5 b) or 5 c), do you think this licence system should apply to you?**

**Q7. Are you an importer or exporter of tobacco manufacturing equipment?**

Questions 5 to 7 above are not applicable

**Q.8 Do you think a 'licence' system is the most effective way of controlling the import and export of tobacco manufacturing equipment? If not, do you have any alternative proposals?**

Yes, see answer to Question 4 above and 11-14 below. ASH believes that an effective positive licensing scheme should cover all commercial entities involved in the tobacco supply chain.

**Q.9 Are you an importer or exporter of tobacco products? Not applicable**

**Q.10 Do you think a 'licence' system is the most effective way of controlling the import and export of tobacco products? If not, do you have any alternative proposal?**

Yes, see answer to Question 4 above and 14 below. ASH believes that an effective positive licensing scheme should cover all commercial entities involved in the tobacco supply chain.

**Q11. What conditions should be applicable for obtaining a licence or equivalent?**

**Q12. What reasonable sanctions/penalties do you think should be applied to businesses for non-compliance?**

**[Q13. If you are replying on behalf of a business: a) Where do you think costs and burdens are likely to arise for your business? b) Do you anticipate any benefits for your business? c) Could you outline the nature of these costs/benefits and the timescales over which they are likely to arise? Is it possible to outline the key methodology and assumptions used in producing any estimate of these costs? d) If you have an alternative proposal (Qs 4, 8 & 10), would this impact the administrative burden?]**

**Q14. We welcome your views on 4.1 – 4.10, and specifically: a) What is your view on a licensing system? Do you think a ‘licence’ system is appropriate? If not, do you have any alternative proposals? b) Do you think a licence system (or equivalent approval) should apply to all businesses in the chain? i.e. retailer, wholesaler, warehouse owners, brokers etc. c) If you feel a licensing system (or alternative proposal) is not appropriate, do you have any alternative suggestions to tackling illicit trade in tobacco products? d) If you think a licence system is appropriate, what type of licence system do you think would work best? e) If you think a licence system (or equivalent proposal) is appropriate, do you have any views on how this should fit with the existing and planned Registers in Scotland, Wales and Northern Ireland? f) What do you see as the potential benefits of a licensing system in tackling the illicit trade in tobacco and evasion of Tobacco Products Duty? g) Do you see any other potential benefits of introducing a licence system to the supply chain other than tackling illicit tobacco?**

### **General Observations**

ASH strongly supports a positive licensing scheme applying to all businesses in the tobacco supply chain, including manufacturers, wholesalers, retailers, importers and exporters. We want to see a strong and effective licensing scheme, recognising that tobacco is a uniquely harmful consumer product that kills half of its lifetime users. Tobacco consumption causes about 100,000 premature deaths a year across the UK, around 80% of UK deaths from lung cancer, around 80% of deaths from bronchitis and emphysema, and about 14% of deaths from heart disease. More than one quarter of all cancer deaths can be attributed to smoking.

It should therefore be subject to a regulatory regime that is at least as strict as those applying to alcohol and gambling, which are both subject to licensing schemes.

A positive licensing system is essential for the following purposes:

- to drive out those involved in the criminal supply of illicit tobacco at all levels of the supply chain;
- to inhibit unlawful or illegal activity by businesses that are ostensibly legitimate, but who are complicit in the illicit tobacco supply chain;
- to provide real incentives to legitimate traders not to enter into any form of involvement in the illicit supply of tobacco for reasons of income or, as is becoming more common, from pressure from organised crime; and
- to protect tax revenues. Tobacco excise tax raised £9.5 billion in 2014/15, and the total tax revenue lost because of illicit tobacco was £2.1 billion. <sup>7</sup>

We also support a licensing scheme that requires a license for both individuals and premises involved in the supply chain. This is necessary to prevent individuals from avoiding the consequences of suspension or revocation of a premises licence by simply moving to new premises. It is also important to ensure that a named (and licensed) individual or individuals can be held responsible for supply chain failures such as the diversion of legitimately manufactured tobacco products into illicit channels.

While we view the registration schemes now in effect in Scotland, and being implemented in Wales and Northern Ireland, as a major improvement on the situation in England, we do not regard them as the best possible solution in relation to control of the supply chain from manufacturers and importers down to retail outlets.

We consider that an effective positive licensing scheme should contain the following elements:

- For **manufacturers and importers**: a permit to import or manufacture tobacco products with the cost based on sales data, a requirement to only supply and distribute product through licenced distributors and wholesalers, and a requirement to provide information on sales and brand volumes by region/area/shop each year.
- For **distributors and wholesalers**: a permit to transport tobacco products, with mandatory security requirements and tracking controls; a permit to sell products with a cost reflecting the harm caused; a requirement to provide customer and sales data, and a requirement to only supply retailers who have a permit.
- For **retailers**: a permit to sell tobacco products, which could be suspended or revoked for breaches of tobacco control legislation (sale to minors, display ban, etc) as well as selling or receiving illicit tobacco.

In relation to manufacturers, we do not support HMRC's decision to exempt them from this licensing proposal, since we do not consider the registration requirements under the Tobacco Products Regulations 2001 to provide sufficient enforcement powers and penalties to deter manufacturers from failing to control their supply chain adequately, or from direct complicity in illicit trade.

We note that Section 7A of the Tobacco Products Duty Act 1979 places duties on tobacco manufacturers relating to the supply of tobacco products, specifically:

- To avoid supplying tobacco products to persons who are likely to smuggle them into the UK.
- To avoid supplying tobacco products where the nature or circumstances of the supply make it likely that they will be re-supplied to persons who are likely to smuggle them into the UK.
- To avoid otherwise facilitating smuggling of tobacco products into the UK.

However, penalty notices under this legislation have only rarely been issued, and the penalties imposed have been far under the permissible limit of £5 million.<sup>8</sup>

In relation to retailers, we note that Article 6 of the ITP requires only that a tracking and tracing system records details of *"the first customer who is not affiliated to the manufacturer"* and the *"identity of any known subsequent purchaser"* while Article 15 of the revised EU Tobacco Products Directive requires information to be recorded about *"all purchasers from manufacturing to the first retail outlet"*. We consider the TPD formulation to be greatly preferable and recommend that this be the required standard in relation to any licensing scheme.

We are unaware of any alternative approach that would constitute an *"equivalent approval granted, or control system"* within the terms of Article 6 of the ITP, and provide an effective means of meeting the UK's obligations under Article 23.3 of the revised EU Tobacco Products Directive, which requires that *"Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures that are necessary to ensure that these penalties are enforced. The penalties provided for shall be effective, proportionate and dissuasive. Any financial administrative penalty that may be imposed as a result of an intentional infringement may be such as to offset the economic advantage sought through the infringement"*.

We consider that an effective positive licensing scheme should offer the following benefits:

- a. The permanent removal of a large proportion of the final sellers of illicit tobacco, once a widespread system of detection and enforcement is in place.

- b. Significant reductions in the leakage of tobacco from the licenced distribution system into grey and black markets in the UK.
- c. Increased turnover for legitimate local retailers who obey tobacco control legislation. Although these businesses make very low profit margins from selling tobacco itself, it does draw customers into their shops regularly, and the resulting collateral sales are very important to these businesses.
- d. A decline in the illicit tobacco trade should also result in fewer children obtaining cigarettes and becoming addicted in their teens.

### **Negative Licensing and Registration**

In Scotland, a Tobacco Retail Register was introduced in 2011. Registration is free and can be done on-line. Anyone can be registered as there are no entry requirements. Applications can be made for multiple premises. As at August 2015, only five retailers had been banned from selling tobacco on a temporary basis.

A similar system is being introduced in Northern Ireland following a formal consultation, and the Welsh Government has also published plans to create a Register. Unlike the Scottish and Northern Ireland Registers, in Wales there would be a registration fee, believed to be £30.

Although we consider registration schemes in these three jurisdictions as an important step forward, we consider that they do not offer the full range of desirable controls for the regulation of the tobacco supply chain.

Key issues with such schemes are:

- Rather than being pro-active and prevention-oriented, negative licensing/registration is reactive and primarily a means to respond after problems have occurred.
- Negative licensing/registration does not allow for any prior assessment of whether a tobacco retailer is a fit and proper person to sell tobacco.
- There may be no licence fee, and therefore no consequent revenue stream to support administration and enforcement programs.
- If tobacco can be sold without the need to demonstrate compliance with positive licensing conditions, this would send a weak message to wholesalers and retailers about the importance of obligations under tobacco control laws, as compared with alcohol.

### **Licensing Fees and Costs**

Licence fees should be set at a level that is appropriate to cover *both* administrative *and* enforcement costs.<sup>9</sup> This could require either a single fee payable for a combined alcohol and tobacco licence, or a revised licensing scheme (as recommended by the Local Government Association)<sup>10</sup> that would offer a range of permissions, presumably with an accompanying range of fees.

We would favour recovering the cost of licences through a levy on manufacturers and importers, with the proceeds distributed to national and local enforcement authorities, the local element being distributed in proportion to sales in each local authority area. (A possible but less desirable alternative could be distribution on the basis of local measures smoking prevalence rates.) While retailers make low profit margins on tobacco, the four major tobacco companies are some of the most profitable in the world, and could easily meet the costs of a licensing scheme.<sup>11</sup> As the Chancellor pointed out in the 2014 Autumn Statement: *“Smoking imposes costs on society, and the*

*government believes it is therefore fair to ask the tobacco industry to make a greater contribution”.*

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To the extent that costs were passed on to consumers, this would have a major public health benefit as more are persuaded to quit a habit that now causes about 100,000 premature deaths a year across the UK.

The distribution of part or all of the fees from a licensing system to local government would help overcome two problems with local enforcement work against illicit trade: first, that Council budgets are being sharply reduced; and secondly that, unlike for central government, which benefits from increased tax revenues, there is no direct financial gain to Councils from enforcement action leading to reductions in the level of illicit trade.

### **Sanctions (Q.12)**

ASH believes that a licensing system for tobacco products should provide a set of appropriate penalties, based on the uniquely harmful nature of the products and on the negative consequences for Government revenues, public health and social order of a high level of illicit trade.

ASH welcomes the announcement in the Budget 2016 that *“HMRC will consult on strengthening sanctions to tackle tobacco fraud”*, which we strongly support.

Article 23.3 of the EU Tobacco Products Directive requires that *“Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures that are necessary to ensure that these penalties are enforced. The penalties provided for shall be effective, proportionate and dissuasive. Any financial administrative penalty that may be imposed as a result of an intentional infringement may be such as to offset the economic advantage sought through the infringement”*.

Sanctions under a licensing scheme should therefore have due regard to:

- The uniquely harmful nature of the product and its very serious impact on public health
- The loss of Government revenue consequent on illicit trade
- The high level of potential profits for individuals engaged in illicit trade.

Sanctions should include:

- Punitive penalties for criminals operating without a licence at all levels of the supply chain. The available penalties should reflect the full range of harms that the trade creates, including harm to public health, loss of duty and tax, and harm to the viability of legitimate businesses.
- Fines proportionate to the size of the commercial entity that breaches its licence conditions
- Fines sufficient to negate any commercial advantage gained through breaches of licence conditions
- Temporary or permanent deprivation of licence.

Fines and deprivation of licences should be administered by the responsible enforcement authority, i.e. HMRC for entities operating at national level or across local authority boundaries, and local

authorities where entities (or a single outlet of a larger entity where the breach of conditions is confined to that outlet alone) are within the local authority area.

It should be a criminal offence, punishable by unlimited fines or up to six months in prison (i.e. within the range of sanctions that can be imposed by a magistrates' court) to sell cigarettes, or to possess or supply them for commercial purposes, without a licence. Magistrates should be issued with guidance designed to ensure that they treat such offences with the seriousness they deserve.

### **Comparison with Alcohol Licensing**

ASH believes that a “*negative licensing*” or registration scheme would be likely to provide weaker controls on the tobacco supply chain, particularly at a local level, than those relating to the sale of alcohol. This is despite a widespread view among trading standards officers and others that the alcohol licensing system, under the Licensing Act 2003, should not simply be extended to include the tobacco supply chain, for example because under the alcohol licensing system there is a strong presumption in favour of granting licences.

In March 2013, the number of alcohol licences in England and Wales was 171,200.<sup>13</sup> Applicants for a premises licence must serve a copy of the application on the licensing authority, the police, the fire authority, the local Director of Public Health, the body responsible for health and safety enforcement, the body responsible for dealing with pollution (Environmental Health), the body responsible for advising on child protection issues, the planning authority and the weights and measures/trading standards authority. These bodies are all known as Responsible Authorities and are able to make representations to the licensing authority about an application. In addition to the Responsible Authorities the Act allows for any “*other person*” to make representations in relation to the grant of a licence. If representations are made, the licensing authority must hold a hearing in most cases.

Licence fees are prescribed in regulations (the Licensing Act 2003 (Fees) Regulations 2005). They are based on the national non-domestic rateable value of the premises and can range from £100 up to £1,905. Most premises licences are of indefinite duration: in most cases an annual renewal fee is required.

It should be noted that some local authorities have suspended or revoked alcohol premises licences because of offences related to tobacco.<sup>14</sup> It is highly unsatisfactory that the enforcement regime related to tobacco is so weak that local authorities have felt obliged to use the alcohol licensing system as an enforcement mechanism for tobacco-related offences.

### **Comparison with Gambling Licensing**

The UK gambling industry consists of diverse forms of gambling, including casino games, sports-betting, bingo and gaming machines. Tax revenues from gambling were about £2.3 billion in 2014/15.<sup>15</sup> “*Operating licences*” are granted to responsible persons by the Gambling Commission, along with “*national operating licences*” to gambling businesses. Local authorities grant “*premises licences*”.

Local authorities must:

- Set the local framework for gambling through their statement of principles, with due regard to guidance from the Gambling Commission

- consider applications and issue licences for premises where gambling takes place, with conditions where appropriate;
- review or revoke premises licences;
- issue permits for some forms of gambling; and
- undertake inspection and enforcement activities, including tackling illegal gambling.

Both the Gambling Commission and local authorities are bound by a statutory aim to permit and must accept premises applications if they meet the terms of the Gambling Commission’s codes of practice, and in the case of local authorities Gambling Commission guidance and the relevant local authority’s statement of principles.<sup>16</sup>

While ASH would not support a statutory aim to permit in relation to tobacco licences, the division of responsibilities between the Commission and local authorities may offer a useful model for tobacco licensing. This would require a national body to issue, suspend and revoke licences at that level. One possible model might be to make tobacco licensing a function of a Government department, with the exercise of that function overseen by a committee, including other relevant departments, representatives of local authorities and individuals with public health and tobacco control expertise.

### **Other Existing Positive Licensing Schemes**

Positive licensing schemes that could provide a useful model for the UK exist in other countries, including several US and Australian states. A positive licensing scheme is also in effect in Guernsey under the Tobacco Products (Guernsey) Order 2014.<sup>17</sup>

Key features of the Guernsey licensing scheme are:

- Licences may be refused if the applicant has committed a relevant offence (including offences related to tobacco sales, fraud, etc.), or is not a “*fit and proper person*”
- Corporate bodies applying for licences must supply details of a “*responsible person*” (as per alcohol licensing), and any enforcement action can be brought against that person, or the corporate body, or both
- Licensees must hold proper business records for inspection by any “*authorised officer*”, and authorised officers have rights of entry and search
- On proper grounds, and subject to appeal through the courts, a licensing officer can suspend, revoke or vary the conditions of a licence
- Obstructing or providing false information to an authorised officer is an offence
- Licences must be renewed annually<sup>18</sup>
- Licensing officers must keep a register of licence holders.

The existing licensing scheme for scrap metal dealers in England and Wales may also offer a useful model. This licensing scheme is also intended to control the scrap metal supply chain, by imposing penalties if dealers do not meet due diligence and record keeping requirements, including:

- Verifying the name and address of any person selling scrap metal to a dealer
- Displaying a site licence in a prominent public place
- Keeping detailed records of all scrap metal received and disposed of
- Keeping records for at least three years, and making them available to local authorities or police if asked.

Penalties include revocation of licences and fines of up to £5,000 per offence. However, we note that Government guidance states that: *“the licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through existing funds.”*<sup>19</sup> We do not consider that this restriction should apply to tobacco licensing.

## Other Considerations

While we understand that HMRC’s priority is to establish a system compliant with Article 6 of the ITP in relation to supply chain controls, we would point out that a positive licensing scheme, with an adequate licence fee, could also provide valuable financial resources for enforcement authorities, including those at local level (e.g. Trading Standards departments). In a period of tight public spending constraints this could provide funds to ensure that enforcement of all legislation relating to tobacco control can continue at an appropriate level. We would support the creation of regional partnerships between local authorities, to promote the sharing of intelligence and best practice and to make enforcement action as cost effective as possible. We note that existing regional partnerships to fight the illicit tobacco trade, involving local authorities, tobacco control organisations, police and HMRC, have proved very useful, and believe that it would be appropriate to fund suitable partnerships at least in part through license fees.

ASH also notes the observation of the Local Government Association that: *“overall the legislation that underpins England’s multiple licensing frameworks is unnecessarily fragmented and frequently outdated. This creates barriers that prevent councils from issuing licences as efficiently as possible, imposing burdens on both businesses and councils. There is an urgent need for a comprehensive review that identifies where legislation can be scrapped, amended or consolidated to create consistency in the frameworks underpinning licensable activities and deregulate where possible. A new licensing framework should subsequently be overseen by a single government department.”*<sup>20</sup>

## References

<sup>1</sup> Smoking Toolkit Study: Preliminary findings from wave 1 of public support survey (personal communication)

<sup>2</sup> Calder R, Hitchman S, Rooke C and McNeill A. ‘[Closing the Doors on Tobacco Promotion](#)’. Institute of Psychiatry, Psychology & Neuroscience, King’s College London. March 2015, Accessed on 06 May 2015. Available at: [http://www.cancerresearchuk.org/sites/default/files/policy\\_march2015\\_pos\\_report.pdf](http://www.cancerresearchuk.org/sites/default/files/policy_march2015_pos_report.pdf)

<sup>3</sup> Tobacco Retailers Association, Tobacco Retailer Licensing (TRL) Survey, May 2016  
<file:///C:/Users/hcheeseman/Pictures/TRL-Survey-final-highlights-May-2016-102-2.pdf>

<sup>4</sup> [“Tackling illicit tobacco: from leaf to light”: HMRC and Border Force strategy to tackle tobacco smuggling](#):. Page 10. HMRC & Border Force, March 2015

<sup>5</sup> For example, [Final fake tobacco factory gang member jailed](#): HMRC Press Release, 2 Nov 2012

<sup>6</sup> [General Product Safety Directive](#) 2001/95/EC

<sup>7</sup> [HMRC Tobacco Bulletin](#), Feb 2016 and [HMRC Tobacco Tax Gap Estimates 2014/2015](#) Tax loss figure quoted is mid-range estimate

<sup>8</sup> See for example: [BAT fined for oversupplying hand-rolled tobacco in low tax jurisdictions](#). The Guardian, 16 Nov. 2014. The penalty imposed was £250,000

<sup>9</sup> It should be noted that Westminster Council recently won an important case in the Supreme Court concerning fees for licences covering the sex trade. The [judgment](#) said: “There is no reason why [a licensing fee] should not be set at a level enabling the authority to recover from licenced operators the full cost of running and enforcing the licensing scheme, including the costs of enforcement and proceedings against those operating sex establishments without licences.”

<sup>10</sup> [Rewiring Public Services: Rewiring Licensing](#). Local Government Association, January 2014

<sup>11</sup> [Branston, JR.](#) and [Gilmore, A.](#) The extreme profitability of the UK tobacco market and the rationale for a new tobacco levy. University of Bath, 2015.

<sup>12</sup> [Chancellor signals further action against big tobacco](#). The Independent, 3 Dec 2014

<sup>13</sup> [Alcohol Licences: statistical trends](#). Institute of Alcohol Studies

<sup>14</sup> See for example a case from Bedford: [Two stores lose licences over counterfeit goods](#) ITV News, 7 Dec. 2014

<sup>15</sup> [A survey of the UK tax system](#): Institute of Fiscal Studies, Nov 2015

<sup>16</sup> See [Licensing compliance and enforcement](#) Gambling Commission.

<sup>17</sup> [Tobacco Products \(Guernsey\) Ordinance 2014](#)

<sup>18</sup> It should be noted that the EU Services Directive (Directive 2006/123/EC) allows personal licences/authorisations to be kept under active review but does not allow periodic renewal except under Article 11.1(c) where “a limited authorisation period can be justified by an overriding reason relating to the public interest”.

<sup>19</sup> [Scrap Metal Dealer Act 2013: Guidance on licence fee charges](#)

<sup>20</sup> [Rewiring Public Services: Rewiring Licensing. Local Government Association, Jan 2014, page 7](#)