



UKCTAS
UK Centre for Tobacco & Alcohol Studies

ash.
action on smoking and health

2015 Budget submission to the Chancellor of the Exchequer

Introduction

1. ASH is a public health charity set up by the Royal College of Physicians in 1971 to advocate for policy measures to reduce the harm caused by tobacco. It receives funding from the British Heart Foundation and Cancer Research UK for this work. The UK Centre for Tobacco & Alcohol Studies (UKCTAS) was created in 2008 and includes research teams in nine UK universities. It is one of five Public Health Research Centres of Excellence, funded by the UK Clinical Research Collaboration.
2. This paper sets out our joint recommendations on tobacco policy in tax and related areas in advance of the forthcoming Budget. The ASH/UKCTAS joint submission is endorsed by 64 organisations (see Annex A for the full list).

Recommendations

3. Set out below are our key recommendations:

Tobacco Levy

- 1) Introduce a tobacco levy to raise £500 million with funds to be used to support an evidence-based strategy at national, regional and local level to discourage youth uptake and help smokers to quit.
- 2) Advocate for a revision of the EU Tobacco Tax Directive to allow governments to cap tobacco industry prices.
- 3) Require tobacco manufacturers and importers to make publicly accessible at aggregate level the volume of sales and price of tobacco products by category, broken down to local authority level.

Tobacco Taxes

- 4) Introduce a minimum consumption tax (MCT) for all tobacco products.
- 5) Increase tax levels on handrolled tobacco (HRT) until they are equivalent to those on manufactured cigarettes.
- 6) Ensure that the specific tax element for manufactured cigarettes is the maximum allowed under the revised EU tax directive.

Raw Tobacco

- 7) Implement a registration scheme backed up by broader seizure powers to improve the effectiveness of controls on raw tobacco.
- 8) Advocate for a revision of the EU Tobacco Tax Directive to set excise taxes for raw tobacco equivalent to those on HRT.

Illicit Trade

- 9) Update the Government's anti-smuggling strategy taking on board the recommendations of the National Audit Office, the APPG on Smoking and Health the Public Accounts Committee and the Home Affairs Committee. In particular:

- increase funding, particularly for inland work in collaboration with local authorities and the regional offices of tobacco control;
 - control tobacco industry supply chains more effectively, including by naming and shaming, and utilising supply chain legislation;
 - introduction of a licencing scheme for retailers; and
 - setting targets for reducing the size of the illicit market.
- 10) Launch the consultation on measures required to implement the Illicit Trade Protocol without further delay and ratify the Illicit Trade Protocol to the WHO Framework Convention on Tobacco Control at the earliest opportunity.

Background

4. Putting tobacco taxes up is potentially, in economic and health terms, a progressive rather than regressive measure because poorer smokers are more likely to quit, and youth less likely to take up smoking, as they are more sensitive to price increases.¹ Indeed raising tax is the only tobacco control intervention which has been proven to have a greater effect on more disadvantaged smokers at population level and so contribute to reducing health inequalities.² However, poorer smokers who don't quit are disproportionately disadvantaged in economic terms because of the negative impact of tobacco tax increases on their already small incomes.
5. This poses a dilemma which can be resolved by ensuring that all efforts are made to motivate and support smokers in quitting. The health organisations which endorse the ASH Budget submission support increasing tobacco taxes as long as at the same time Government continues to provide adequate funding for measures to help smokers to quit and population level measures to reduce smoking.
6. In this light we welcomed the Chancellor's announcements in the 2014 Budget that:
- the tobacco escalator of 2% above inflation would be extended to the end of the next Parliament;
 - there would be a consultation on the introduction of a Minimum Excise Tax; and that
 - there would be consultations on a range of measures to strengthen the response to tobacco smuggling and improve anti-forestalling controls.³
7. We were, however, disappointed that there was no attempt to narrow the gap in tax levels between manufactured cigarettes and hand-rolled tobacco to reduce downtrading.
8. We also welcomed the announcements in the Autumn Statement that the Government would:
- consult on the introduction of a levy on tobacco manufacturers and importers;
 - introduce measures to tighten anti-forestalling restrictions and apply penalties for non-compliance, in order to prevent tax avoidance; and that
 - a decision whether to pursue a MET further will be made in due course after careful consideration of the responses to the consultation.

¹ The World Bank. Curbing the epidemic: governments and the economics of tobacco control. May, 1999.

² Amos A, Bauld L, Clifford D, et al. Tobacco control, inequalities in health and action at a local level. York, Public Health Research Consortium, 2011.

³ HM Treasury. [Budget 2014](#). HC 1104. March 2014. paragraphs 2.141 to 2.144

Tobacco Levy

9. We strongly agree with the Chancellor's observation that: "*Smoking imposes costs on society, and the Government believes it is therefore fair to ask the tobacco industry to make a greater contribution.*"⁴ We attach the ASH detailed consultation response which we will be submitting and a supporting document by Howard Reed of Landman Economics commissioned by ASH.
10. Tobacco manufacturers and importers in the UK are immensely profitable, such that the industry could certainly afford to make a greater contribution. Recent research by Branston and Gilmore at the University of Bath suggests that in the UK the industry has made at least £1 billion in profits in each of the last 5 years, that this profitability has been increasing during the period of analysis, and that the profitability is likely to be in the region of £1.5 billion in recent years. Tobacco manufacturers and importers are also found to enjoy consistently high profit margins of up to 68%, compared to only 15-20% in most consumer staple industries.
11. Preventing the industry from passing on the cost of any levy would require price controls. It is not clear that this would be technically feasible in the light of the current EU Tobacco Tax Directive.⁵
12. However, even if the industry did pass on the full cost of any levy, the public would support such additional taxation if it were spent on tobacco control measures. Indeed 78% of the adult population, including a majority of smokers, would support a levy that raised an additional £500 million if the money raised were to be used to discourage youth uptake and help smokers to quit.⁶ If any money raised simply went into the Consolidated Fund this would be an unfair additional burden on smokers, who are predominantly amongst the poorest and most disadvantaged in society.
13. We strongly support a levy with proceeds to be used for tobacco control. At the same time we recommend that the industry be required to provide data on sales down to local level which could be published at an aggregated level to inform public health policy. The industry should also be required to provide data on marketing spend, including corporate social responsibility and lobbying activity and on its profitability within the UK.
14. The EU Tobacco Tax Directive is due for review shortly. We recommend that the UK Government advocate for revisions which would enable the introduction of a price capping mechanism. Placing a cap on prices made by manufacturers and importers would enable the excess profit to be transferred from the manufacturer to government, and prevent the costs of the levy simply being passed on to the consumer, so fulfilling the objective of ensuring that the industry pays a greater contribution to the costs it imposes on society.⁷

⁴ [HM Treasury Autumn Statement](#) December 2014, paragraph 2.252

⁵ EU Tobacco Tax Directive Article 15.

⁶ West R. Public support for a tobacco levy. Smoking Toolkit Study. 2006

⁷ Gilmore A, Branston JR, and Sweanor D. The case for OFSMOKE: how tobacco price regulation is needed to promote the health of markets, government revenue and the public. Tobacco Control 2010 19: 423-430

Minimum Excise Tax

15. Recent work suggests that the industry differentially shifts tax increases between brand segments such that, on average, taxes on premium brands are overshifted, while taxes on ultra-low price (ULP) brands are not always fully passed onto consumers.⁸ The smaller the ad valorem tax element and therefore tax differential between high and low priced tobacco products, the more costly it is for the industry to do this.
16. The introduction of a Minimum Excise Tax, underpinned by setting specific tax on manufactured cigarettes at the maximum allowed under the EU Tobacco Tax Directive, is the best way to minimise the difference in tax levels for different price categories.
17. We recommend the introduction of a Minimum Consumption Tax rather than a Minimum Excise Tax because it includes VAT as well as excise tax and therefore impacts not just on tax levels for manufactured cigarettes but also on hand-rolled tobacco. Raising the tax levels at the lower priced end of the HRT market could help reduce the likelihood of downtrading within HRT.
18. We also recommend additional measures on hand-rolled tobacco to introduce a higher tax escalator than for manufactured cigarettes until the tax rates are equivalent. There is evidence from the Netherlands that consumption of hand-rolled tobacco increases as the price differential between manufactured and hand-rolled tobacco increased,⁹ and certainly this is the pattern we've seen in the UK where there has been a significant increase in the use of hand-rolled tobacco (HRT) in recent years.
19. This is due to the lower price of HRT particularly as a result of large imports of tax paid cheap HRT smuggled into the UK from Europe. This in turn discouraged the Government from increasing taxation on HRT in line with cigarettes, so increasing the price differential between cigarettes and legal HRT. The proportion of smokers mainly or only using HRT increased from 25% of men and 8% of women in 1998 to 40% of men and 26% of women in 2011.¹⁰
20. The equivalent tax rate for HRT can be accurately calculated using recent research on the average weight of tobacco per hand-rolled cigarette.¹¹ This would increase the tax take and reduce the likelihood of smokers downtrading to HRT rather than quitting. Evidence from overseas indicates that the tobacco industry will try to exploit loopholes in tax legislation by selling HRT as pipe tobacco if lower taxes are applied to pipe tobacco.¹² For this reason we suggest keeping taxes on pipe tobacco in line with those on HRT.

⁸ Gilmore AB, Tavakoly B, Taylor G, Reed H. Understanding tobacco industry pricing strategy and whether it undermines tobacco tax policy: the example of the UK cigarette market. *Addiction*. 2013 Jul; 108(7): 1317–1326.

⁹ Mindell JS, Whyne DK. Cigarette consumption in the Netherlands 1970 – 1995: does tax policy encourage the use of hand-rolling tobacco? *Eur J Public Health* 2000;10:214-9.

¹⁰ Smoking and drinking among adults, 2011. *General Lifestyle Survey 2011*, Office for National Statistics, March 2013.

¹¹ Gallusa S, Lugo A, Ghislandic S, La Vecchia C, Gilmore, A. Roll-your-own cigarettes in Europe: use, weight and implications for fiscal policies. *European Journal of Cancer Prevention* 2014; 23:186–192

¹² Clifford D, Ciercierski C, Silver, K, Gilmore A. PPACTE Work Package 5 – Milestone 5.2. Tobacco industry influence over tobacco taxation in Poland. Dublin. PPACTE, 2012

Anti-forestalling measures

21. In our response to the HMRC consultation which closed on 4th August 2014 we supported tougher measures and penalties to prevent forestalling and we are pleased that the Government is proceeding with their introduction.

Raw Tobacco

22. The HMRC consultation on raw tobacco closed on 30th January 2015. We recommend a rapid analysis of the responses so that measures can be introduced in the 2015 Budget.
23. Two options were put forward to reduce the risk of evasion of excise duty: a proposed scheme of registration for users of raw tobacco to tackle this form of tax evasion and an alternative option to bolster existing powers of seizure.
24. We do not agree with the consultation document that broadening seizure powers should be considered as an “alternative option” to registration. We would prefer to broaden seizure powers so that they allow for seizures, subsequent forfeiture and appropriate financial penalties where an importer of raw tobacco does not comply with the requirements of the registration scheme, including supply chain controls introduced in conformity with the Illicit Trade Protocol. We accept that this would involve some additional workload for HMRC, but if this power were appropriately used we consider that it would be likely to prove cost effective in terms of reducing tobacco tax evasion.
25. We also believe that the problem of illicit trade in raw tobacco would be reduced significantly if excise tax were levied on it so as to increase the price and reduce the price differential between raw tobacco and fine-cut tobacco. However, we recognise that this would require changes to the Tobacco Tax Directive and urge HMRC to advocate for these changes to be made in the upcoming review of the Directive.

Tackling Illicit Trade

26. When the Public Health Minister announced that the Government would be proceeding with making regulations on standardised packaging for tobacco products she also said that HMRC had undertaken a detailed assessment of the potential impact of standardised packaging on the illicit market.¹³ We note that HMRC’s review concluded that: *“We have seen no evidence to suggest the introduction of standardised packaging will have a significant impact on the overall size of the illicit market or prompt a step-change in the activity of organised crime groups.”*¹⁴
27. HMRC first started developing a new anti-smuggling strategy in 2013. We accept that a root and branch review has been necessary. However, a new strategy needs to be published without further delay at the time of the Budget to ensure that HMRC and the UKBF have an adequate road map to guide their work in this area.
28. We strongly endorse the recommendations of the Public Accounts Committee and National Audit Office in their 2013 reports on HMRC’s progress in tackling tobacco smuggling, the 2013 report on illicit trade produced by the All Party Parliamentary

¹³ Hansard Standardised Packaging (Tobacco Products). 21 Jan 2015 : Column 342

¹⁴ The Introduction of Standardised Packaging for Tobacco. HMRC 12 Feb. 2015

Group on Smoking and Health; and the 2014 Home Affairs Committee report.¹⁵ These recommendations should be an integral part of the revised strategy.

29. We were pleased to see that in November HMRC fined British American Tobacco £650,000 for oversupplying its products to Belgium. We would like to see a policy of naming and shaming manufacturers who fail to co-operate put in place as part of the upcoming strategy.
30. We also note growing evidence that the tobacco industry and those it funds have been exaggerating the scale of the illicit tobacco trade and using their misleading data to dominate media coverage and promote misleading industry messaging on illicit.^{16 17}
¹⁸ We believe that it is only after public criticism of such data that more accurate estimates are produced, albeit largely hidden. For example, following criticism of its previous data¹⁷, KPMG's latest report for the tobacco industry revised its previous estimates for the UK illicit trade downwards.¹⁹ We therefore call on HMRC to publicly critique any data they believe to be inaccurate.
31. It has been estimated that the ratio of additional public spending on tackling illicit tobacco compared to the additional tax revenue generated is about 1 to 10, making it exceptionally cost effective and strongly suggesting that cutting spending on this area could actually increase rather than reduce the Budget deficit.²⁰
32. We recommend that funding for HMRC's tobacco strategy should be substantially increased in 2015-16, and that this should be accompanied by quantified targets for a reduction in the market share of illicit cigarettes and tobacco from 2014-15 onwards.²¹
33. We would also like to highlight the need for the Government to commit to supporting the development of effective regional partnerships across England and work to tackle illicit trade at local level. This could include direct funding where required, for example by using any HMRC underspends. HMRC should collaborate with the Tackling Illicit Tobacco for Better Health partnership, which can play a key role in supporting this work.

¹⁵ Home Affairs Committee - First Report: Tobacco smuggling. 11 March 2014.

[Recommendations.](#)

¹⁶ Rowell A, Evans-Reeves K, Gilmore AB. Tobacco industry manipulation of data on and press coverage of the illicit tobacco trade in the UK. *Tob Control* Published Online First 10 March 2014 doi:10.1136/tobaccocontrol-2013-051397.

¹⁷ Gilmore AB, Rowell A, Gallus S, et al. Towards a greater understanding of the illicit tobacco trade in Europe: a review of the PMI funded, KPMG authored "project star" report. *Tob Control* 2014;23:e51-61.

¹⁸ Evans-Reeves K A, Hatchard JL, Gilmore AB '[It will harm business and increase illicit trade](#)': an evaluation of the relevance, quality and transparency of evidence submitted by transnational tobacco companies to the UK consultation on standardised packaging 2012. *Tob Control*. December 10, 2014

¹⁹ KPMG [Project Sun: a study of the illicit cigarette market in the European Union](#), 2013 results. 2014. (accessed 23 Jul 2014).

²⁰ Johnson P. "Cost Benefit Analysis of the FCTC Protocol on Illicit Trade in Tobacco Products"

²¹ The UK Government set outcome measures for a quantified reduction in the market share of illicit cigarettes and tobacco between 2000 and 2007-8. These were achieved in advance of the deadline and proved very effective in helping maintain the incentive to put resources into this area, while helping ensure consistency and transparency. The current strategy includes a commitment "to achieve further sustainable downwards pressure on the illicit market in cigarettes and HRT through to 2015", but this objective is not currently quantified.

34. A commitment was made in the 2014 Budget that the Government would consult during summer 2014 on a range of measures to strengthen its response to tobacco smuggling and forestalling. While the consultations on raw tobacco and forestalling have been completed, the consultation on the illicit trade protocol has not yet started. We would urge the Government to launch the consultation on measures required to implement the illicit trade protocol without further delay.
35. Of particular concern are the supply chain controls that are central to the Protocol's provisions, including licencing of the supply chain down to retail level and the development of an international tracking and tracing regime for tobacco products in line with Article 5.3 of the FCTC (Article 8 of the Protocol). To this end, we note that the tobacco industry is attempting to promote its own track and trace system, Codentify, which is both inadequate in its function and, through its links to industry, fails to meet the criteria established in the Illicit Trade Protocol and is inconsistent with Article 5.3.²² It is essential that the UK individually and the EU collectively ratify the Protocol as soon as possible, while ensuring any track and trace system is fit for purpose and independent of the tobacco industry.

²² Joossens L. Gilmore AB. [The transnational tobacco companies' strategy to promote Codentify, their inadequate tracking and tracing standard.](#) *Tob Control* doi:10.1136/tobaccocontrol-2012-050796

ANNEX A: Organisations endorsing ASH's submission to the 2015 Budget

AF Association
Arrhythmia Alliance
ASH Northern Ireland
ASH Scotland
ASH Wales
Association of Directors of Public Health
Association of Respiratory Nurses
Blackpool Council Public Health
British Dental Health Foundation
British Heart Foundation
British Thoracic Society
Buckinghamshire Tobacco Free Alliance
Cancer Focus Northern Ireland
Cancer Research UK
Cheshire and Merseyside Tobacco Alliance
Chartered Institute of Environmental Health
City of York Council
Darlington Borough Council
Faculty of Public Health
Fresh
Global Bridges Europe
Hartlepool Borough Council
Heart of Mersey
Hertfordshire County Council
Hertfordshire County Council
Lancashire County Council
National Centre for Smoking Cessation and Training
NHS Stockport CCG
North 51
North Lincolnshire Smokefree Alliance
Nottingham City Strategic Tobacco Control Group
Nottinghamshire Strategic Tobacco Alliance Group
Public Health Manchester
Quit
Quit 51
Royal College of Paediatrics and Child Health
Royal College of Physicians
Royal College of Radiologists
Royal Society for Public Health
Smokefree County Durham Tobacco Control Alliance
Smokefree Coventry
Smokefree Hertfordshire
Smokefree Lincolnshire Alliance
Smokefree Newcastle
Smokefree South West
Smokefree Yorkshire & the Humber
Socialist Health Association
Somerset County Council
Southampton City Council
St Helens MBC
STARS (Syncope Trust And Reflex anoxic Seizures)
Stoke on Trent City Council

The Deborah Hutton Campaign & Cut Films
The Lullaby Trust
The Primary Care Respiratory Society UK
Thurrock Council
Tobacco Free Futures
Tobacco Free Luton
Tobacco-free Leicestershire & Rutland
UCL Health Behaviour Research
UK Health Forum
University Hospitals of Leicester NHS Trust
Warwickshire County Council
Worcestershire Tobacco Control Alliance