(i) Illicit Trade

We specialise in niche, low volume tobacco products such as handmade cigars and pipe tobacco (OTP) sold in traditional tobacco shops across the UK.

The illicit trade in other tobacco products (OTPs) is negligible. In June 2013 the European Commission published ‘Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products: A comprehensive EU Strategy’ (COM (2013) 324 final). Regarding the illicit trade in tobacco products other than cigarettes the Commission noted that “The seizures reported by the Member States confirm that cigarettes constitute by far the biggest part of seizures of tobacco products, although some significant seizures of Hand Rolling Tobacco (HRT) were also recorded. Other tobacco product types do not appear in significant numbers” (paragraph 2.2). Also, other more recent publications such as the ‘Fight against Fraud Annual Report 2013’ (July 2014), the ‘Evaluation of the Hercule II Programme’ by Ramboll Management Consulting A/S (May 2015) and the OLAF report 2014 (June 2015) do not contain any references to the existence of illicit trade in cigars and OTPs.

Within the general heading of illicit trade there is virtually no evidence of any countfeiting of OTPs because the small scale of the markets involved do not offer material rewards for this type of activity. The only example that exists is in the case of premium, hand-made cigar sector where very high value products can provide an opportunity for counterfeiters. However the small volumes involved cannot justify the scale of any of the suggested measures and are better addressed by the manufacturers involved.

(ii) Administrative/Financial Burden

Tor Imports are very concerned at the likely level of administrative and financial costs which these measures will place on our small sized business and for our small to medium sized family run manufacturers of OTPs. Whilst total costs accruing to mainstream manufacturers are much larger than those accruing to OTPs, the relative burden of compliance (e.g. costs versus revenue) is much higher for OTP manufacturers, since their brands are typically produced in much smaller quantities and, in most cases, are not automated. Costs therefore fall on a much smaller number of units sold. Indeed, compliance with the measures by smaller companies is particularly burdensome, and a number of them are even of the view that in certain cases it is virtually impossible.

(iii) Summary

From our perspective the overriding principle of the application of any Unique Identifier and Security Feature to OTPs is that the system selected should recognize the small scale of the manufacturers and distributors of this category. The vast majority of OTP manufacturers are not large multi-national corporations; instead they are comparatively small, usually family-owned, businesses. The distributors of these products such as Tor in the markets across Europe are virtually all SMEs and in some cases like us, micro-businesses. We will only be in a position to attempt to comply with the measures if they are simple and inexpensive to implement. For these operators, many of whom also have very limited technical knowledge and capability, a uniform approach across different tobacco categories is inappropriate because it will result in them being disproportionately impacted.

Due to the fact that illicit trade in OTPs is negligible, the potential for reducing illicit trade in OTPs is negligible, and indeed there is therefore no compelling or logical case for OTPs to be included in the measures. The differences between tobacco categories are recognised by the fact that OTPs are granted a further 5 years derogation over mainstream products; however, regardless of this, our view is that these measures are for OTPs inappropriate and unnecessary.