

## Introduction

The Tobacco Manufacturers' Association (TMA) is the trade association for the UK tobacco industry and represents British American Tobacco UK Ltd., Imperial Tobacco Ltd., and Gallaher Ltd. (a member of the Japan Tobacco Group of companies).

On behalf of my members, I would like to put on record that I have major reservations about the unintended consequences if a phased generational ban on the purchase of tobacco becomes law. I urge the Government and Parliament to reflect hard on the ramifications of this policy decision and the lasting impact that it will have on the UK.

In my view, it will have profound repercussions which will be felt by consumers, retailers, law enforcement agencies and communities across the country, because in due course, the entire UK tobacco market will be pushed underground and into the hands of criminals and organised crime groups.

## Executive Summary

1. Prime Minister Rishi Sunak wants to prevent young people from ever taking up smoking and he has stated that 4 in 5 smokers start before they are 20 years old, but a proposed policy for a 'phased generational smoking ban' (or 'tobacco prohibition law') needs to be based on credible evidence – and the current [evidence underlines that young people are not taking up smoking](#)<sup>1</sup>.
2. The generational ban is unworkable, illiberal and unenforceable, and will push the entire UK tobacco market underground into the hands of criminals, fuelling the profits of the same organised crime gangs that trade in illegal drugs, modern slavery, people trafficking and sexual exploitation, and who corrupt and manipulate local communities with crime, violence and disorder, up and down our country.
3. The Government has repeatedly ignored the views of retailers (especially small independent retailers) about the impact that a phased generational ban will have on their businesses, and the very real fear that it will lead to an escalation in more threatening anti-social behaviour towards shopkeepers and their staff, which is already at epidemic levels.
4. The Government has adopted the view that 'legislative prohibition' will extinguish consumer demand. Historically, this approach has consistently failed with the prohibition of alcohol sales in the United States in the twentieth century, and more recently in South Africa during the Covid pandemic with consumers simply changing their behaviour and switching to purchase illegal tobacco through criminal channels.
5. The Government has not given serious consideration to the 'costs'<sup>2</sup> involved in implementing a phased generational ban – the entire focus on this policy has been on the proposed 'benefit' of reducing legal tobacco sales. This will result in the legal tobacco market becoming obsolete in the UK, but making a product illegal does not mean it ceases to exist. Nor does it remove demand for the product. It simply means that the source and supplier of that product changes and in future will be completely controlled by criminals.

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<sup>1</sup> [Daily Telegraph "Britain's low smoking rate lights up further criticism of Sunak's tobacco ban" With toughest laws and highest taxes, analysis shows that UK already leads Europe on breaking habit even without tighter restrictions \(20 April 2024\)](#)

<sup>2</sup> [Tobacco and Vapes Bill – Impact Assessment \(20 March 2024\) Page 39 – "Summary of costs and benefits by stakeholder group" – zero reference to the increased impact of illicit trade on law enforcement agencies](#)

6. If the Government is committed to further reducing smoking rates it should focus on stronger enforcement action against those retailers that sell tobacco to minors, more investment in targeted-education campaigns, youth access prevention and smoking support services, and campaigns to educate smokers on less harmful alternative nicotine products.

#### **A. Evidence to support the need for a phased generational ban**

1. Smoking rates are in decline across Great Britain/United Kingdom and have been for over 40 years. In 1982, 35% of adults (aged 16+) smoked compared to 12.9% of adults (aged 18+) in 2022<sup>3</sup> according to Government statistics with smoking rates among young people at historically low levels.
2. There must be legitimate concern that a phased generational ban – treating particular adults differently, based on the year of their birth – will in fact create a new market and new consumer demand, with ‘prohibition’ likely to potentially incentivise young people to try a product that they are ‘banned’ from purchasing. Equally, there is a risk that such a ban will enhance the appeal and allure of smoking to young people to try something ‘illegal’ – the majority of whom had previously shown zero interest in smoking.
3. The Tobacco and Vapes Bill – Impact Assessment (IA) makes a series of modelling assumptions which it is hard to believe are realistic or accurate, such as smoking rates will reach near 0% based solely on improved enforcement. Moreover, no consideration has been given to the potential sizeable growth of the illicit tobacco market nor the impact on law enforcement.
4. The Government consulted “19 expert stakeholders by email from the UK, Australia, and New Zealand, mostly academics, that work in tobacco control and/or have experience of similar modelling”<sup>4</sup>, but there is no explanation of who these experts were or how they were selected.
5. The IA modelling also casts doubt on the credibility of its objective stating it “assumes some people continue to smoke despite it being illegal for effectively all ages to be sold tobacco by 2100. This seems a more realistic situation than prevalence dropping to zero, for example, some people still access and use illicit drugs.”<sup>5</sup>
6. If the Government honestly believes that banning an adult from purchasing a product will secure the desired policy objective, then what is the Government’s explanation for 2.5 million adults consuming cannabis and 1.1 million adults using Class A drugs in the last 12 months.<sup>6</sup>

#### **B. Unworkable, illiberal and unenforceable: the impact on shopkeepers, their staff and levels of retail crime**

7. In the UK, 18-years of age is when a person becomes an adult and takes full legal responsibility for their actions. It is the age when you can legally buy alcohol, fight for your country, obtain a credit card, serve on a jury and place a bet.

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<sup>3</sup> Various methods have been used to measure smoking rates in Great Britain & the United Kingdom over the years. 1974-2010 figures are from General Household/Lifestyle Surveys (GLS) and Opinion Lifestyle Survey (OPN) surveys and are for age 16+ in Great Britain. Data from 2014 onwards is from the Annual Population Survey (APS) and is for age 18+ in the UK.

<sup>4</sup> Tobacco & Vapes Bill – Impact Assessment (20 March 2024)

<sup>5</sup> Ibid.

<sup>6</sup> ONS Drug misuse in England and Wales: year ending March 2023

8. The phased generational ban means that after 1 January 2027, the minimum legal age when an adult will be able to buy tobacco will change to 19-years' old, in 2028 it will be 20-years' old, in 2029 it will be 21-years' old, increasing every year, for example: in 2039 it will be 31-years' old, in 2049 it will be 41-years' old etc. until it applies to the whole UK population.
9. Retailers will no longer be able to simply judge people by how old they appear and only require proof of age from those they believe to be under 18-years-old.
10. It is absolutely appropriate to ask young adults to prove their age when they want to purchase age-restricted goods like alcohol and tobacco – as is the case now, with long-running successful schemes such as Challenge 25 and 'No ID, No Sale', but fast forward a few years and a phased generational smoking ban will see retailers having to judge which 30-year-olds or 40-year-olds are allowed to buy tobacco. Proxy purchasing will become a minefield for retailers to detect and enforce. This is not common sense.
11. A phased generational smoking ban will in effect require all UK adults to present mandatory photographic ID should they wish to buy tobacco, so that retailers can be certain they are not breaking the law, a situation which according to Andrew Chevis, CEO of CitizenCard<sup>7</sup> (the UK's largest supplier of Police-approved proof of age and identity cards) will be totally impractical.
12. In the Second Reading of the Tobacco & Vapes Bill, the Health Secretary dismissed any suggestion that there will be "unintended consequences" from the introduction of a phased generational ban. This is either naïve or insulting to the concerns of many thousands of independent retailers who will feel the full weight of responsibility in enforcing this ban.
13. As with the Tobacco & Vapes Bill Impact Assessment<sup>8</sup> (where the input of the interest group Action on Smoking and Health [ASH] is referenced 38 times in the report<sup>9</sup>) the Government has heavily relied on research commissioned by ASH<sup>10</sup> claiming that "the majority of retailers support this policy."<sup>11</sup>
14. According to ASH's research which questioned the opinions of a total audience base of 904 retailers across England and Wales:
 

**51% supported** a phased generational ban  
**26% were against** a phased generational ban  
**23% neither supported nor opposed** a phased generational ban
15. The research findings present the smallest margin of support for the policy (51%) and cannot credibly be used as evidence that the majority of retailers support a phased generational ban.
16. James Lowman, CEO of the Association of Convenience Stores (ACS) which represents more than 49,000 local retailers has stated: "The generational ban will introduce new requirements for retailers that will be unique to the tobacco category, and will in time end the highly successful Challenge 25 policy. The ban will have a financial impact. Despite declining smoking rates and more smokers switching to vaping, tobacco is still the biggest sales category by value for many convenience stores."<sup>12</sup>

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<sup>7</sup> ["Smoking ban plans threaten to undo good work of ID schemes, The House Live \(16 November 2023\)](#)

<sup>8</sup> [Tobacco and Vapes Bill Impact Assessment report \(20 March 2024\)](#)

<sup>9</sup> [Taxpayers' Alliance "The tobacco ban is an evidence free mess" \(16 April 2024\)](#)

<sup>10</sup> [ASH report: "Support for Stopping the Start: Local retailers and the public back smokefree generation laws" \(13 April 2024\)](#)

<sup>11</sup> Secretary of State for Health & Social Care, Second Reading of the Tobacco & Vapes Bill (16 April 2024)

<sup>12</sup> [Daily Express "Tobacco ban will increase shoplifting and aggressive customers, warns study" \(9 April 2024\)](#)

17. In stark contrast, below are a range of views from independent retailers who have publicly explained the impact that they believe a phased generational smoking ban will have on their businesses:

**Concerns about increased crime and violence**

“The proposed tobacco ban will hit convenience retailers the hardest. We know from recent reports, and our own experiences, that violence or abuse towards shopkeepers is on the rise, with ID checks or refusal of sale often a common cause of this. It’s fair to say that the proposed ban would highly likely exacerbate this issue and drive a further increase in threatening behaviour against retailers.” **Paul Cheema, Owner of Malcolm’s Convenience and Forecourt, Coventry**

**Rise in an already burgeoning illegal trade problem**

“We’re already battling a growing illicit tobacco problem across the country, and I have no doubt that this ban would simply hand more of the UK tobacco market into the hands of criminals. Smuggled tobacco already costs law-abiding retailers thousands of pounds as smokers switch to cheaper, un-taxed and un-regulated illegal products. The police and Trading Standards would need significant additional support to ensure both the ban is enforced and to keep a lid on illicit trade.” **Nishi Patel, Owner of Londis Bexley Park**

**Impossible to enforce**

“It’s difficult to see how this proposed tobacco ban would be properly enforced. It’s a deeply impractical law, which means at some point retailers will be expected to distinguish between 36 and 37-year-olds when deciding who to sell tobacco to. An increase in ID checks will likely slow down transactions in-store which can lead to frustrated customers.” **Atul Sodha, Owner of Londis Harefield, Uxbridge**

18. Numerous retail representative organisations have all evidenced that UK retailers are facing unprecedented levels of verbal abuse and physical violence:
- According to the *Union of Shop, Distributive & Allied Workers (USDAW)* “age-related sales” already represent the most prominent “trigger for violence and abuse towards staff” (and is responsible for 16% of reported incidents) only behind “shoplifting”.<sup>13</sup>
  - In March, the *Scottish Grocers’ Federation* reported that “over half of reported daily incidents of abuse against staff were connected to refusing a sale or when asking for proof of age.”<sup>14</sup>
  - The *British Retail Consortium’s* most recent annual Crime Survey, published in February, found that UK retailers now suffer more than 1,300 incidents of violence and verbal abuse **every day** – compared to 870 incidents recorded last year and a huge 180% increase from 450 incidents a day in 2019-20, with 40% of violent shoplifting crimes not attended to by police<sup>15</sup>. In addition to the obvious physical and mental costs on victims, retail crime also directly costs UK retailers £3.3 billion annually.<sup>16</sup>
  - In November 2023, the *Retail Trust* surveyed more than 1,600 retail workers, 9 in 10 of whom said that they had experienced customer abuse, 1 in 3 had been threatened with violence, 14% physically assaulted and 10% spat on, resulting in 66% of retail staff saying they felt stressed and anxious about going to work and 42% are considering quitting their jobs or leaving retail altogether.<sup>17</sup>

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<sup>13</sup> [USDAW Campaign to end violence and abuse against retail workers – Survey results 2022 \(October 2023\)](#)

<sup>14</sup> [Scottish Grocers’ Federation Annual Crime Report & Safer Business Guide \(March 2024\)](#)

<sup>15</sup> [Evening Standard “40% of violent shoplifting crimes not attended by police, figures reveal” \(12 February 2024\)](#)

<sup>16</sup> [British Retail Consortium Crime Survey \(February 2024 Report\)](#)

<sup>17</sup> [Retail Trust Survey \(November 2023\)](#)

19. A phased generational ban will lead to an escalation in more threatening anti-social behaviour towards retailers, as the weight of responsibility for enforcement will fall entirely on the shoulders of shopkeepers and their staff, with no penalty proposed for consumers who try to break the law and buy tobacco when they are under the new legal age threshold, which will change each year, every year.
20. A regulated, taxed and legal industry which delivers (according to HMRC) over £12.5 billion a year (excise & VAT) in taxes will be replaced by an expanding illegal tobacco industry, trading cheap, unregulated, untaxed and uncontrolled products, with the added incalculable cost, borne by retailers, who will see their trade disappear and law enforcement agencies who will bear the brunt of trying to curb the activities of organised criminal groups, similar to the challenges experienced in Australia, where organised criminals are competing for market share by firebombing retailers who refuse to sell their illegal tobacco: [“Task force launched as 28th store firebombed in tobacco shop wars” \(9 News Australia\)](#) and [“Tobacco store arson attacks shine spotlight on ‘lucrative’ illicit tobacco industry” \(news.com.au\)](#).

### C. Challenging the premise that the illegal tobacco trade is declining in the UK

21. In the Second Reading of the Tobacco & Vapes Bill, the Minister cited the significant success of the anti-smuggling strategy that Border Force & HMRC have pursued against the illegal tobacco trade.
22. Broken down by category, the reduction in illicit cigarettes and illicit hand-rolling tobacco may suggest impressive progress, but in the most recent ‘Measuring tax gaps’ (2023 edition)<sup>18</sup>, HMRC stated that:
 

*“there has been a reduction in the tobacco duty gap estimate as a proportion of total theoretical tobacco duty liabilities, from 21.7% in the 2005 to 2006 to 17.7% in the 2021 to 2022 tax year. Between 2005 to 2006 and 2014 to 2015, the tobacco duty gap declined reaching a low of 12.1% in 2014 to 2015. Since 2014 to 2015 the tobacco duty gap series has broadly increased”.*
23. Even being optimistic, a decline of 4% in the illicit market between 2005-06 and 2021-22 (a sixteen-year period) is slow progress, especially since in that period the ‘overall’ volume of tobacco sales has significantly declined.
24. The combined excise & VAT tax gap in 2005-06 was £2.7 billion, and sixteen years later in 2021-22 it was £2.8 billion, which doesn’t paint a picture of sustained progress in tackling the illicit tobacco trade.<sup>19</sup> Factoring in the comparative tax revenues the Government collected from tobacco taxes (combined excise & VAT) in 2005-06 (£9.35 billion) compared to in 2022-23 (£12.5 billion) underscores the limited progress that has actually been achieved<sup>20</sup>.
25. The strangest admission from HMRC can be found in its own words in ‘Stubbing out the problem: A new strategy to tackle illicit tobacco’<sup>21</sup>, where it admits:
 

*“despite tighter controls and successes since ‘Leaf to Light,’ HMRC’s tax gap estimates and wider intelligence suggests the tobacco duty gap has broadly stagnated since 2015 (15.6% in 2015 to 2016 to 17.7% in 2021 to 2022). This stagnation suggests that no matter how much we strengthen our current strategy, supply will always find a way to enter the market where a demand for it exists.”*

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<sup>18</sup> [HMRC “Measuring tax gaps” \(2023 edition\)](#)

<sup>19</sup> HMRC ‘Measuring tax gaps’ (2023 edition)

<sup>20</sup> HMRC Tobacco Tax Bulletins (2005-23)

<sup>21</sup> [HMRC & Border Force policy paper: “Stubbing out the problem: A new strategy to tackle illicit tobacco” \(1 March 2024\)](#)

26. It is an unorthodox assessment of the data, when an increase from 15.6% to 17.7% (a 2.1 percentage point increase) is referred to as stagnation. If this had been a reference to inflation, it is highly unlikely that a Government minister would have suggested it reflected ‘stagnation.’
27. The Government has committed an additional £100 million over five years, (that’s £20 million a year split between HMRC, Trading Standards and Border Force) to clamp down on criminals trading illegal tobacco.
28. As previously referenced, by the Government’s own figures, the illegal tobacco market already costs £2.8 billion a year in lost taxes, equating to over £54 billion since 2000, when HMRC launched its first strategy to tackle illicit tobacco. The additional funding the Government has committed is a drop in the ocean when competing with organised crime groups who HMRC described as using “the proceeds of this crime to fund the smuggling of weapons, drugs, and even human beings across the globe”<sup>22</sup>.
29. A phased generational ban will gift the UK’s tobacco market into the hands of criminals. The UK’s law enforcement agencies are inadequately resourced to face the enormity of this future challenge as organised criminals ramp up their operations to compete for their share.
30. If there is precedent for a ban on tobacco sales, the most recent experience in South Africa which temporarily banned tobacco purchases during Covid in 2021 (with criminals quickly filling the void and supplying the demands of 93% of South African smokers who switched to purchasing illegal tobacco through criminal channels)<sup>23</sup> should give the Government reason to reconsider the impact that this policy will have on criminal activity and revenues.
31. To reiterate the point made in the ‘Executive Summary’, making a product illegal does not mean it ceases to exist.

**D. There is no evidence that a phased generational smoking ban will work**

32. This policy is not supported by any evidence – because it has not been implemented anywhere in the world.
33. New Zealand was never a credible case study comparison to the UK. With its remote geography, New Zealand does not have an extensive black market in illegal tobacco products. In contrast Great Britain is only 20 miles from mainland Europe, and with escalating demand will ensure it is both a lucrative and enticing destination for illegal tobacco exports.
34. On top of the increasing challenges law enforcement in Great Britain will face in tackling a growing illegal tobacco trade, the situation will be exacerbated in Northern Ireland, where both UK and Irish border force authorities, will be severely tested in monitoring traffic across the open land border with the Republic of Ireland.
35. The introduction of a phased generational smoking ban is akin to the UK Government printing a ‘charter for smuggling,’ as that will be the end result. A policy which is unworkable, illiberal and unenforceable.

Rupert Lewis, Director, TMA  
(Total word count: 2,997 excluding footnotes)

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<sup>22</sup> [HMRC & Border Force policy paper: “Stubbing out the problem: A new strategy to tackle illicit tobacco” \(1 March 2024\)](#)

<sup>23</sup> [British Medical Journal: The temporary ban on tobacco sales in South Africa \(January 2021\)](#)