

Written evidence submitted by the Imported Tobacco Products Advisory Council (ITPAC) (TVB15)

Written evidence – Committee Stage - Tobacco and Vapes Bill by Tatiana Camacho - Secretary-General of ITPAC.

Introduction: The Imported Tobacco Products Advisory Council (ITPAC) is an association which represents 18 tobacco importers and distributors, with most of its core members comprising small family-owned SMEs and Micro-businesses. A major proportion of turnover for these companies' business is generated from the importation and sale of traditional other tobacco products (OTPs) which comprise cigars, cigarillos, pipe tobacco and snuff.

Given the government's stated rationale for the policy – to prevent young people from starting to smoke in order to protect them from the harms of smoking as they grow older – as well as the evidence presented in support of the measure, it is readily apparent that the inclusion of OTPs will make no measurable contribution to furthering the government's policy objectives.

Our members have expressed concerns about the Government's Impact Assessment (IA) of the Tobacco and vapes Bill as it pertains to OTPs. The Department of Health and Social Care (DHSC) responses to our members initial letters cited Article 5.3 of the Framework Convention on Tobacco Control (FCTC) as a reason for not addressing these concerns. However, this interpretation of Article 5.3 seems overly restrictive and inaccurate. The article aims to ensure transparency, accuracy and independence in policymaking, not to exclude industry input entirely. It states:

"In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law."

In this context we would like to make the following points:

- The total absence of data in relation to OTPs on the Impact Assessment should be urgently addressed before the current draft Bill proceeds, considering such a wide impact.
- The very limited scale of these businesses' operations, and the specialist nature of the products they distribute, meant that their share of the total tobacco market in the UK in 2022 continues to result in a statistically insignificant percentage.
- OTPs usage is extremely limited, and they are certainly not used as an 'alternative' to cigarettes for reasons of cost and availability in the market.
- OTPs represent a minute share of the total tobacco market, and in 2022 accounted for only 1.2 %, market share (Source: HMRC Clearance Data). In addition to this, the traditional Cigars and Cigarillos category shows a decline of 27.2% over the past 5 years, and Pipe Tobacco a 31.3% decline over the same period.
- OTPs represent a tiny segment in comparison to cigarettes and hand-rolling tobacco.
- OTP's do not appeal to children and young people and they are not used for smoking initiation. For example, only 2% of the UK adult male population and virtually no females smoke cigars.
- In addition to these, numerous small high street shops, wine merchants and hospitality outlets rely on OTPs for a big portion of their revenues (around 80%).
- The potential impact on trade, tourism, and employment is significant and warrants careful consideration.
- Regulation of tobacco in Britain has always been underpinned by the assumption that informed adult consumers have the right to smoke.
- Article 5.3 of the WHO/FCTC, does not mandate the exclusion of the tobacco industry from the policymaking process but emphasize safeguarding policies from being undermined. The FCTC promotes good regulatory practices, ensuring public health decisions are free from undue influence. Excluding the OTPs sector from the IA process disregards this principle and the UK's requirements for transparency, openness, and evidence-based policymaking.

- The Guidelines on implementing Article 5.3 allow for interactions with the tobacco industry, provided they are transparent and accountable. This aligns with the UK's Better Regulation Framework (BRF), which emphasizes proportionate, evidence-based policy informed by stakeholder insights. Effective regulatory assessment involves understanding the impacts on diverse stakeholders, particularly SMEs. Such engagement is crucial for a comprehensive IA, which should consider viable options and potential unintended impacts on SMEs and micro-businesses in the OTP sector.
- The Better Regulation Framework (BRF) requires thorough and inclusive consultations to gather balanced evidence. Incorporating insights from affected sectors supports sound policymaking, mitigating unintended consequences and supporting public health goals without imposing excessive burdens on SMEs.

Executive Summary:

1.- Considering the devastating effect the inclusion of OTPs would have on UK small and medium-sized businesses, including specialist tobacconists which make up a significant proportion of the OTP sector, the inclusion of OTPs must be urgently reconsidered. It is our view that policy development for tobacco products should continue to recognize the differences that exist between these categories of products, as has more recently been the case.

2.- This Bill is of existential concern to the future of our members' businesses and the retail network they supply. We do not believe that the products they represent or the retail sector they serve have been adequately taken into consideration in the drafting of the legislation or in the Impact Assessment (IA) published November 5th, 2024, and the subsequent opinion from the Regulatory Policy Committee.

3.- The IA upon which this legislation is being advanced relies exclusively on data pertaining to cigarette consumption, sales, revenues, margins, use patterns, risk reduction, costs, benefits to the health system, impact on small businesses, tourism, and investment in business, and takes no account of Other Tobacco products (OTPs). In its 164 pages, the word 'cigar' is mentioned only once on page 75 in the context of the definition of Specialist Tobacconists and there is no mention of cigarillos, pipe tobacco or snuff.

4.- The evidence for incremental age increases cited in the IA relies exclusively upon data pertaining to cigarettes and hand-rolling tobacco.

5.- OTPs are significantly different from cigarettes and hand rolling tobacco in terms of age profile (take up at 30+ years), price (very high), availability (limited), and consumption habits. The consumers who smoke OTPs consume for pleasure, have no desire to 'quit', and cannot be described as nicotine addicted as is the case with cigarette smokers. The DHSC should propose a specific age-of-sale across the UK for OTPs.

6.- ITPAC would like to highlight that the prevalence of OTPs use among the UK population is so insignificant that neither the DHSC nor the Office for National Statistics currently tracks their incidence (as exemplified in the recently released 2023 Adult smoking habits in the UK).

7.- The Impact Assessment overlooked critical aspects, including the diverse range of tobacco products, OTPs comprehensive data on consumer usage patterns, demographic variations and the significant economic implications for small, micro and medium enterprises. These omissions could lead to misguided policy decisions that fail to address the needs and realities of the entire tobacco sector, potentially harming small and medium businesses and skewing consumer behavior analysis.

8.- Most of the OTPs are sold through Specialist Tobacconists of which there are around 100 in the UK. Around 80% of the revenue generated by a Specialist Tobacconist comes from the sale of OTPs.

9.- It is imperative to highlight that there are no alternative products to OTPs. This is different to cigarettes where vapes are offered as an alternative. No such alternative exists for OTPs because when people consume them, it is for occasional pleasure, not because they are addicted.

10.- The RPC guidance for IA's states the following in regard to small and medium businesses (SaMBA):

The default position is to exempt SMBs from the requirements of new regulatory measures. In some cases, it might be possible to achieve a large part of the intended benefit even if smaller businesses are exempted, for example where larger businesses account for much of the intended regulated activity and/or where this activity accounts for a large part of the detriment the regulation seeks to reduce. If, after assessment, it is concluded that the measure should apply to SMBs, departments should consider whether there are disproportionate impacts on them and, if so, whether and how costs could be mitigated.

11.- This revenue generated by OTPs cannot be replaced with any other products (unlike cigarette sales in a newsagent). Our members' businesses and those of the retailers they supply will cease to exist because of this legislation. We do not believe this has been taken into consideration in the IA or that the wider economic impact this valuable, respected, long-standing sector has on the UK Economy has been considered.

12.- The analysis below considers the direct economic contributions made as well as the wider economic footprint supported through indirect Type I effects (supply-chain) of the 13 largest OTPs manufacturers, importers and distributors belonging to the Imported Tobacco Products Advisory Council. The data used represents only the OTPs portion of ITPAC Members operations.

Direct Economic Contribution of Importers, Distributors and Manufacturers Only

In 2023, it is estimated that the 13 largest OTP importers, distributors and manufacturers directly contributed:



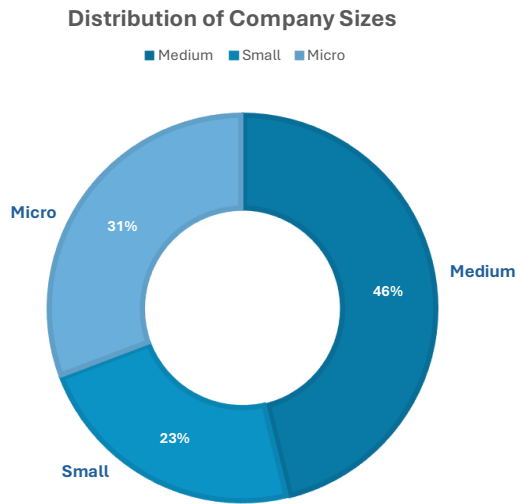
Aggregate Direct and Indirect Economic Contribution

In 2023, it is estimated that these businesses' aggregate direct and indirect economic contribution was:



*Contribution to the Exchequer through taxes paid includes income tax, national insurance contributions, corporate tax, VAT and excise.

OTP Sector Composition – Importers, Distributors and Manufacturers Only

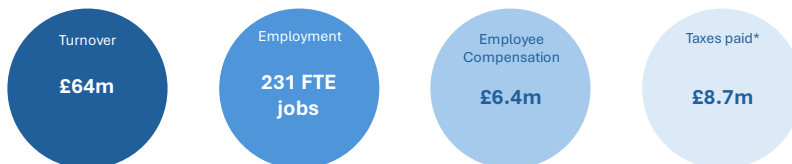


13.- The next graphics also includes the 16 largest specialist tobacconists operating in the United Kingdom.

- Specialist Tobacconists are retailers defined as shops that sell tobacco products by retail, more than half of whose sales derive from the sale of snuff, cigars, pipe tobacco and smoking accessories.
- OTPs sales account for an average of over 80% of a Specialist Tobacconist's sales revenue.

Direct Economic Contribution of Specialist Tobacconists Only

In 2023, it is estimated that the 16 specialist tobacconists which provided data directly contributed:



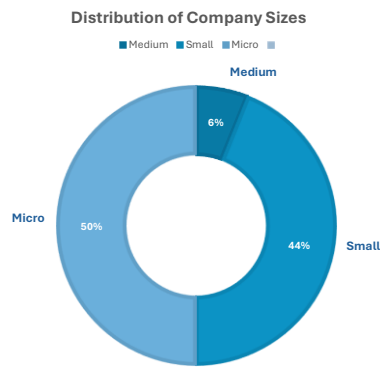
Aggregate Direct and Indirect Economic Contribution

In 2023, it is estimated that these businesses' aggregate direct and indirect economic contribution was:

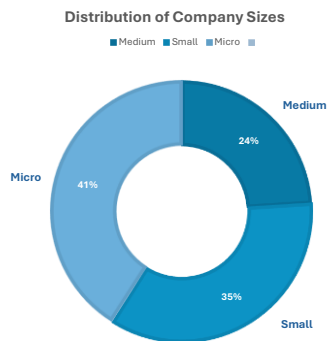


*Contribution to the Exchequer through taxes paid includes income tax, national insurance contributions, corporate tax, VAT and excise.

OTP Sector Composition – Specialist Tobacconists Only



OTP Sector Composition – Importers, Distributors, Manufacturers & Specialist Tobacconists



Conclusion:

While the health risks associated with smoking are undeniable, ITPAC believes that the approach to mitigating these risks should rest on regulation that is evidence-based and proportionate, and should balance public health objectives with personal choice, market trends, and practical enforcement challenges.

We would recommend that the Government bring down smoking rates by concentrating on specific measures targeting youth tobacco and nicotine use, rather than imposing a blanket ban (i.e. stronger enforcement against retailers who sell tobacco and nicotine products to minors, alongside more targeted education campaigns which are effective deterrents to prevent young people from initiation) and by concentrating on specific products contributing to tobacco and nicotine initiation.

Furthermore, we urge the Government to re-evaluate the current approach and ensure that the voices of affected industries and businesses are not only heard but genuinely considered in the decision-making process.

Striking a balance between public health goals and the economic well-being of the nation is crucial, and we believe a more collaborative approach will lead to more effective and sustainable outcomes. To consider increasing the legal age for purchasing OTPs, for example to increasing the legal purchase age instead of the generational ban, recognizing as in previous regulations, the differences that exist between categories of products.

Such an approach is not only consistent with sound, evidence-based policy making and the present Government's commitment to the same, but also with most European countries, which apply differentiated regulatory treatment for OTPs.

In addition, we respectfully request the opportunity to provide oral evidence during the Committee stage. Our association has extensive expertise and information of the sector, and we are keen to share our perspectives on different aspects of the Bill.

This written evidence, which outlines our key points and recommendations, can also be enhanced with an oral presentation that would allow us to elaborate on these points and address any questions the committee may have. We look forward to the possibility of contributing to this important legislative process.

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Secretary-General

ITPAC

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