

[Received by email 20/3/08]

Commissioner Mike Woods
Regulatory Burdens Review
Productivity Commission
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Dear Mr Woods,

Thank you for the opportunity to submit to the Commission's review of Regulatory Burdens.

British American Tobacco Australia Limited ('BATA') is Australia's leading tobacco company, accounting for over 46% of the cigarette market. The company manufactures and distributes cigarettes and roll-your-own tobaccos and distributes pipe tobaccos and cigars. Our brands include Winfield, Benson & Hedges, Dunhill and Holiday.

Tobacco manufacturers are regulated by two Government Agencies. ATO for domestic product and Customs for Imports. This leads to a double up of every administration activity we have and should be rationalised.

Australian leaf content 50%

Item 6, schedule 2 of the Excise Tariff Act 1921 identifies that if manufactured tobacco liable to customs duty is used to manufacture tobacco products, tobacco produced in Australia must constitute at least 50% by weight of the total tobacco used. As the requirement for minimum Australian leaf content no longer applies and there is no Industry policy, we believe that the current provision no longer meets the intent of the policy and would support the deletion of this item from Schedule 2.

Two Government Agencies Regulating Taxation on One Product Category

The Excise Tarrif Act 1921 regulates (amongst other product categories) tax on domestically produced tobacco products, and the Customs Act 1904 regulates tax on imported tobacco products. This situation compels the industry to hold two licenses for each bonded location deal with two sets of regulation and make payments to two separate bodies weekly.

Sales of domestic tobacco products outnumber imported tobacco products in Australia by a factor of more than 9:1, taxes from both agencies flow into treasury, so it seems fundamental to BATA that there should be one Government Agency controlling taxation for Tobacco Products, and, by weight of numbers that agency should be the Australian Taxation office.

Additionally, there is another important facet to control of tobacco products in Australia, being the securing of our border from illicit and counterfeit imports which rob BATA of volume and profit and the Australian Government of revenue. This is the area in which our Customs Service excels and we firmly believe that this should be their appropriate area of focus.

Per stick tobacco rates

There are only two rates of tobacco excise application, "in stick form not exceeding 0.8 grams per stick actual tobacco content" and "other" irrespective whether cigarettes, tobacco or cigars. On import the net weight per stick is calculated to enable a correct classification and statistical code for customs. Generally most of BATA's cigarettes are under 0.8gms per stick whilst a large proportion of cigars exceed this limit, thereby requiring classification and duty liability at a kg rate.

Duty on manufactured tobacco is paid at a per kilogram rate. As the rate of excise per stick has been calculated to equate to a comparable rate per kg there would appear to be no logical reason to differentiate between the two.

It is also difficult for either Customs (controlling the leaf until manufactured into a finished product) or the Australian Taxation Office (controlling finished goods and acting as collection agency for excise duty) to ensure the volumes of tobacco in kg or m/tonne rate at one end, could relate to a finished number of sticks at the other for excise purposes.

Snuff

BATA recommends that the importation of smokeless tobacco be taxed at the general tobacco rate.

Research

BATA conducts product research (laboratory and market research). On behalf of BATA, Vanguard Logistics Services (VLS) enter these goods under an "N20" as bonded cargo and subsequently they apply to Customs for remission of duty. This remission is subsequently written off

against BATA on lodgment of a statement from BATA that goods have been destroyed under laboratory control. Both VLS and BATA keep records of these remissions, although BATA has not been subjected to an audit. It would be advantageous for BATA to have a separate customs and excise heading to cover these products allowing duty free entry.

Multiple Clearance Codes (MCCs)

Currently MCCs are required to be displayed on the weekly Nature 30 return for Tobacco Products. The Nature 30 fields currently identify Tariff Classification, Strat Code, Country of Origin, Goods description and an MCC against each line. An MCC is required for any Cigarette, Tobacco and Cigar in which the Tariff Classification, Strat Code, Goods, Country of Origin are not the same. In relation to Cigars, the strat codes are differentiated by weight. This requires us to have up to 15 MCCs.

Given there are only 2 selection criteria on which duty rates are applied for Cigarettes, Tobacco and Cigars (irrespective of Country of Origin) they being; "In stick form not exceeding 0.8grams per stick actual tobacco content" and "other" my recommendation is that MCCs are required based on Differing products based on the applicable duty rate. This would reduce the MCCs in BATA's case down to 6 (2 each for Cigarettes, Tobacco and Cigars).

The delineation between stat codes, countries of origin and goods, could be easily accessed for statistical purposes from the Customs N20 entry.

BATA appreciates the opportunity to comment and to make the above recommendations.

Yours sincerely,

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