

# Take a stand against Illegal Tobacco

## *The current state of play*

**Illegal tobacco sales in the UK continue to undermine legitimate business whilst providing criminals with huge profits. The continued availability of cheap illegal tobacco in communities across the country undermines attempts to prevent underage people accessing tobacco as illegal tobacco sellers do not care who they sell to.**

The smuggling of tobacco is a multibillion pound industry for criminals. The high level of tax in the UK, the large difference in the tax rates between the UK and other countries, and the openness of international borders creates the perfect environment for criminals to operate.

Criminal organisations and opportunist smugglers are targeting the lucrative UK tobacco market. HM Revenue & Customs' 2012/13 estimates show that revenue theft could be as much as £2.9 billion.<sup>1</sup>

For a criminal, tobacco smuggling is relatively easy. Tobacco products come in small packages, are highly valuable and easy to transport; whilst the risks of detection, prosecution and conviction, though improving, are low relative to the huge profits. For example, a single container of illegal cigarettes can provide criminals with a profit of up to £2 million.<sup>2</sup>

It's clear more needs to be done!



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**Did you know?**  
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# Illegal Tobacco Explained

## What is NUKDP?

Non-UK duty paid (NUKDP) is a catch-all phrase used to describe cigarettes and roll your own tobacco (RYO) found in the UK that has not incurred UK taxes. NUKDP can be legal or illegal.

## What is Legal NUKDP?

This is the legal importation of tobacco products for personal use. Cross-border shopping, as it is commonly referred to, is an integral part of the Single Market in operation in the EU.

UK residents make use of this right to purchase tobacco (and alcohol) from other EU Member States because of considerably lower taxes.

Official guidance states: "You can bring an unlimited amount of most goods into the UK, for example, you can bring in any alcohol, tobacco, meat and dairy products – as long as they are for your own use and transported by you."<sup>3</sup>

Tobacco products bought through cross-border shopping or duty free must not be re-sold, even on a not-for-profit basis.

Duty-free, which is available when travelling outside the EU, is subject to a strict limit of 200 cigarettes or 250g of tobacco.



## What is Illegal NUKDP?

Smuggling is an activity that results in tobacco products entering the UK market without the correct duty being paid. These tobacco products can be genuine, counterfeit or illicit whites that are smuggled into the UK with the express purpose to sell illegally.

## What is Counterfeit?



This is a copy of a brand, made without the brand holder's consent. A number of illegal production facilities have come to light in the UK this year.

Counterfeit production of the UK's No.1 brand Amber Leaf remains a particular concern. In the 12 months to June 2014 over 1 million empty counterfeit Amber Leaf pouches were notified to JTI after being seized by the authorities. This is almost four times more than was reported in the prior 12 months.

## What are Illicit Whites?

Illicit whites have been described by Northern Ireland's Organised Crime Task Force as brands "manufactured for the purpose of smuggling".<sup>4</sup>

Illicit whites are cigarettes that are usually produced legally in one country/market, primarily for smuggling. While they may be exported legally from some countries, they are smuggled across borders during transit to their final destination market where they have limited or no legal distribution and are sold without payment of tax. The one thing they have in common is that they are on sale at very low prices, sometimes for as little as £2.50.



# What is JTI doing to combat the illegal tobacco trade in the UK?

## Test Purchasing

JTI conducts regular test purchasing from markets, pubs and retail outlets in order to assess the scale and nature of the illegal cigarettes and RYO on sale.

The results identify a mixture of genuine products (which have been bought in another market and are being illegally resold), counterfeits and illicit whites on sale at prices well below those of legal UK duty paid products.



**Fact!** JTI test purchasing across the UK has a 60% hit rate.

## Regional Media Campaign

The issue of illegal trade in the local community is a major concern. To help educate readers about the issue of illegal tobacco products within their community, JTI (working with local stakeholders) develops informative, motivating messaging and campaigns that raise awareness of the problem in the Regional Press with the aim of getting people involved to help drive down the level of illegal tobacco in the local community. Raising awareness and highlighting the Custom's Hotline is a key driver to motivate people to report illegal tobacco sales to the authorities.

In addition, JTI is utilising digital platforms and radio infomercials to expand this campaign message to reach an even wider audience.

"If you've ever thought about buying dodgy cigarettes or tobacco think again..."

DOUBLE  
CLICK  
TO PLAY



## Taking a Stand

Unfortunately, there appear to be more instances of UK retailers selling illegal tobacco. Our policy is to terminate the JTI trade relationship with any store which is convicted of selling illegal tobacco products and this is something we have done on a number of occasions.

We believe this action sends out a clear message to retailers that there are serious commercial, as well as legal, consequences if they are convicted of selling illegal products. Businesses convicted of selling illegal tobacco can also face the removal of their alcohol license and lottery terminal, as well as custodial sentences and fines.

JTI's decision has been welcomed by the retail community and in the trade media, as the cover story of a recent edition of Retail Express testifies.



## Trade Reaction

"Any retailer who sells counterfeit or non UK duty paid tobacco gives the rest of the sector a bad name."<sup>5</sup>

Paul Baxter,  
NFRN Chief Executive

"Legitimate retailers are part of the solution and should not hesitate to pass on any intelligence about illegal sales to the relevant authorities and tobacco company reps."<sup>6</sup>

David Shrimpton,  
IRN Editor

# It's too easy for tobacco smugglers

Organisations tackling crime have noted the links between tobacco smuggling and organised crime. For example, Europol have said that tobacco is "Increasingly of interest to criminal groups as a low risk, high profit activity".<sup>7</sup>

In HMRC's recent list of its most wanted tax fugitives, 13 of them were wanted, at least in part, in relation to activities related to tobacco fraud.<sup>8</sup>



Think about it: if you were a criminal - a cigarette smuggler - what would be on your wish list?

1. You'd target a country with **high taxes and prices** like the UK; the higher, the better, as your illegal products will offer more profit because you can charge higher prices.

2. You'd welcome a **retail display ban**; the covering up of a tobacco gantry will blur the distinction between the kiosk and the boot of your car or a stall at an open market.

3. The **Tobacco Products Directive** which bans small packs and widens the price gap between legal and illegal cigarettes and RYO.

4. The 'icing on the cake', **plain packaging**: Copying and printing the pack is one of the most expensive parts of the counterfeiting operation. The less you have to invest, the more money you'll make.

Don't listen to us ...hear what the criminals are saying...

An Indonesian forger told an undercover reporter for The Sun newspaper that his profits would soar when he no longer had to copy the complex packaging and embossing on popular brands. He reportedly punched the air as he mocked the Prime Minister David Cameron, saying: "Plain packaging ... I support the UK Government!"<sup>9</sup>

Online and Social Media – A new opportunity for criminals

This is an evolving platform for illegal suppliers to sell their products. There have been many recent examples where social media sites are being used and illegal suppliers are brazen in their approach.



# Consequences of Regulation

## Retail Display Ban

The retail display ban will cover up tobacco brands in shops and potentially blur the distinction between buying from legal and illegal sources, encouraging a growth in the levels of smuggled and counterfeit products in the UK.

JTI has already identified a number of rogue retailers who brazenly sell illegal cigarettes. The display ban may provide opportunities for other retailers to get 'sucked' into this crime and merge legal and illegal product together, further fuelling a growth in the sales of illegal cigarettes in the UK.



Example of Trade Awareness Campaign

## Plain Packaging

Plain packaging will worsen the illegal trade in tobacco products. Plain packaging will allow new opportunities for criminals to provide counterfeit products (plain or branded), as well as to sell illicit whites and smuggled genuine products. Fuelling the illegal trade normalises criminality and shifts jobs from legitimate UK manufacturers to organised crime groups, which costs the UK taxpayer and public sector millions in lost revenue.

Plain packs would be cheaper and easier to fake than branded ones and would make it more difficult to identify counterfeit product.

Ironically, the proposed regulation seeks to protect children and those from the most disadvantaged backgrounds, but plain packaging risks encouraging them to buy from the cheaper, illegal and unregulated market.



UK  
Example of current pack



Australia  
Example of 'plain packaging' introduced in 2012

## Tobacco Products Directive

The EU's decision<sup>10</sup> to ban 10s, menthol\* and pouches of RYO tobacco under 30 grams is a gift for criminal gangs as more UK smokers who find that their preferred pack is no longer available may be tempted to buy illegal tobacco. Banning 10s and smaller pack sizes of RYO will mean the lowest price in the UK will now be the street price sold by criminals who peddle to anyone, including children.

Meanwhile the UK Government's exchequer will have to plug the financial gap left and thousands of legitimate businesses will suffer.

In the UK over 40% of the current tobacco sales will be banned by the new directive creating a massive disruption to the market.<sup>11</sup>



\* From 2020

# JTI's approach - the best way forward

## JTI's Stance on the Illegal Trade

JTI's number one priority is to prevent genuine JTI products from appearing in illegal distribution channels. Additionally, JTI does not tolerate the copying of its brands or the violation of its intellectual property rights, and will continue to assist the authorities to prosecute counterfeiters to the full extent of the law. The illegal trade in tobacco undermines the equity in JTI's brands and erodes consumer confidence in our products.

## Co-operation is Key

JTI is party to the Joint Anti-Illicit Working Group established as part of the Government's Tackling Tobacco Smuggling strategy. This platform allows manufacturers and HMRC to work together to assess current and emerging threats posed by the illegal trade.

A revised Memorandum of Understanding between JTI and HMRC helps to ensure both parties work in an effective framework to drive down the level of illegal tobacco.



## Information Sharing

JTI provides information to HMRC, OLAF and other law enforcement agencies around the world so that they can seize illegal tobacco products and initiate prosecutions.

In 2013 we provided 787 information reports to law enforcement agencies around the world relating to the transit of billions of cigarettes. We also handled 260 enquiries from Trading Standards departments and Police forces across the UK.

## Know Your Customer Programmes

Our Know Your Customer (KYC) programmes and supply chain controls are designed to ensure that JTI products do not end up in illegal channels.

Of the seizures of JTI brands notified to us by HMRC in 2013, 98% were counterfeit, the same as in 2011 and 2012.

In cases where genuine JTI products have been seized we will review the supply of products to customers and ultimately may terminate supply.

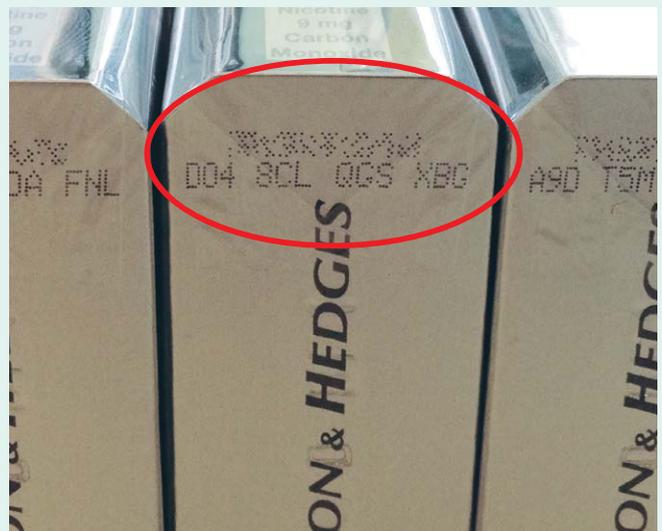
## Supply Chain 'Track & Trace' Security

'Track & Trace' refers to the ability to record and recall information about a product's journey from manufacture, through the distribution channel and in the case of the Tobacco Products Directive (TPD) the requirement to the first retail outlet.

Codentify, a core part of the 'Track & Trace' solution which has been developed and used by JTI and other major tobacco companies, allows us to work with law enforcement agencies to identify where any genuine JTI products seized were a) manufactured, b) distributed, and c) sold.

With the support of HMRC JTI (together with other major tobacco manufacturers) will roll out Codentify in the UK market, as a product authentication tool, by the end of 2014.

JTI together with the Tobacco Industry is currently promoting Codentify and open standards as a 'Track & Trace' solution to meet the proposed TPD requirements.



Example of Codentify 'Track & Trace'

# How you can take a stand



## POLITICIANS

Successive Government policies of above inflation duty increases and subsequent high prices puts the UK at the top of the criminals' list of destinations for illegal tobacco. **Now is the right time for MPs to call on the UK Government to review the approach to taxation of tobacco products.**



## LAW ENFORCEMENT

Weak application of laws and penalties, together with inadequate enforcement, whether from limited resources and training or conflicting priorities, are factors which encourage the illegal trade. **It's time to make the penalty fit the crime.**



## LOCAL COUNCILS

**JTI supports the Local Government Association's efforts to reduce the illegal trade in tobacco products.** However the continued adoption by Councils of the Local Government Declaration on Tobacco Control and its misinterpretation must be stopped. By ignoring valuable information from JTI they risk allowing criminality to flourish. **Let's work together to eradicate this crime.**



## RETAILERS

**It is vital that retailers report criminals** they suspect of selling illegal cigarettes before all community retailers get tarnished by those who decide to sell illegal cigarettes in their shops. **Take a stand and use the Customs Hotline 0800 595 000.**



## MEDIA

Strong and informed editorial is a great way to get across a clear message to people who buy from illegal traders and the criminals themselves that they are not wanted in communities across the UK. **Speak to JTI about how we can work together to communicate a strong message in the media.**



## PUBLIC

Cheap, illegal cigarettes and tobacco destroys local businesses; ruining lives and the area you live in. **"Don't be tempted" to hand over your money to criminals, use the Customs Hotline 0800 595 000 to report people selling illegal cigarettes in your community.**

**IT'S TIME TO TAKE ON THE CRIMINALS. IT'S TIME TO WAKE UP AND SEE THE TRADE OF CHEAP, ILLEGAL TOBACCO FOR WHAT IT IS: A CRIMINAL ACTIVITY, WITH REAL VICTIMS. IT'S TIME TO TAKE A STAND.**

## Who is JTI?

JTI is a leading tobacco company with a market share of over 40% in the UK<sup>12</sup>. Our brands include Benson and Hedges, Silk Cut, Mayfair, Sterling, Amber Leaf RYO and Hamlet Cigars.

### References

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