



**BRITISH AMERICAN
TOBACCO
AUSTRALASIA**

**British American Tobacco Australia Limited
Submission on the Packaging Impacts Consultation
Regulation Impact Statement (PICRIS)**

**Submission to the
Standing Council on Environment and Water**

30 March 2012

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1. Executive Summary

1.1 Nationally Consistent, Evidence Based and Proportionate Regulation

British American Tobacco Australia (BAT Australia) supports sound and sustainable environmental regulations. BAT Australia believes that evidence demonstrated in the Packaging Impacts Consultation Regulatory Impact Statement (PICRIS) does not build a strong case for change however, should the decision be made to introduce regulatory change, we support Option 2a of the PICRIS.

BAT Australia has proceeded on the basis that the assumptions and data relied upon in the PICRIS and its supporting documents are to be taken at face value.

We wish it to be noted that as much as we support sound environmental policy, as discussed in this submission, BAT Australia may be constrained in what it can do in the area of sustainable environmental innovation due to our adherence to the requirements of the Tobacco Plain Packaging Act 2011.

1.2 Packaging Stewardship

BAT Australia recognises that cigarette butts are outside of the scope of this PICRIS, cigarette butts are referred to in this submission only in reference to BAT Australia's broader voluntary product stewardship initiatives.

1.3 Integration and Involvement

It is important that further consultation involves all industry and Government stakeholders in order to achieve universal commitment to a solution. BAT Australia is committed to continued success in the area of product stewardship and would like to request involvement in further consultation, particularly where directly relevant to the tobacco industry.

1.4 Litter Reduction

BAT Australia has undertaken considerable efforts to date in the area of product stewardship with a focus on the broader issue of littering behaviour and the need to provide education and infrastructure to meet objectives.

1.5 Packaging Design and Recyclability

Due to its composition and size, primary packaging relating to tobacco products cannot be considered to be recyclable, nor is it easily recovered by material recovery facilities. Given packaging components, materials and design are to a large extent now controlled by the *Tobacco Plain Packaging Act 2011* this is not something which BAT Australia has much ability to change.

2. Introduction

BAT Australia welcomes the opportunity to respond to the Standing Council's request for submissions in respect of the PICRIS.

As a responsible tobacco company and major manufacturer of consumer packaged products in Australia, BAT Australia is committed to ensuring that environmental issues concerning packaging remain integral to business management. BAT Australia takes its environmental and product stewardship responsibilities seriously, remaining proactively engaged in packaging product stewardship initiatives for over ten years including; the first tobacco company to become a signatory to the National Packaging Covenant, now the Australian Packaging Covenant (APC) and establishing the independent Butt Littering Trust (the Trust) in 2003. BAT Australia understands its packaging and product stewardship responsibilities and has contributed to successful product stewardship programmes.

While generally accepted practice and the Standing Council's guidance make clear that the PICRIS and its options do not include cigarette butt litter within the definition of packaging, it is relevant to highlight BAT Australia's total direct financial contribution to the Trust and butt litter reduction initiatives over the past ten years has been more than \$5 million.

Voluntary industry led programmes relating to packaging, litter and recycling have been successful in Australia, according to reports the APC itself is having success in relation to packaging impacts.¹ Responsible businesses are actively engaged and actively contributing to a reduction in packaging impacts. Whilst BAT Australia acknowledges that there are ongoing challenges and opportunities including businesses that are not actively engaged, BAT Australia would question the need for increased regulation in relation to product stewardship.

In introducing any of the proposed options it must be acknowledged that there are tobacco industry specific considerations to be taken into account. One such element is the fact that the tobacco industry is highly regulated and highly taxed, leading to the proliferation of an illegal market in Australia that is equivalent to approximately 16% of the legal market.² The distributors of illicit tobacco products are neither interested in compliance and responsibility nor will they abide by product stewardship regulation.

A further example of tobacco specific considerations arises from government and agencies working in isolation or at cross purposes. This is seen in the conflict between plain packaging legislation and the ability to adopt sustainable solutions to address environmental impacts. Plain packaging legislation does not allow for the use of packaging to educate consumers, as packaging stewardship initiatives are in part intended.

BAT Australia considers that current stakeholder efforts are resulting in positive trends in recycling and litter reduction, indicating that the mechanisms that are currently in place are serving their purpose.³ Option 2a of the PICRIS involves taking advantage of the current framework and enhancing it to increasing degrees to achieve improved results and considering an extended costs benefits period of 25 years. Given the traction that existing and previous efforts have achieved, and the fact that the current APC has not long been in operation in its current form, a mechanism that builds on this success is a sensible approach.

¹ Environmental Protection Heritage Council, "Packaging Impact Consultation Regulation Impact Statement", Section 3 Nature and Extent of Problem Page 17

² Deloitte, "Illicit Trade of Tobacco In Australia", February 2011

³ Environmental Protection Heritage Council, *above n1*

3. Background

3.1. About British American Tobacco Australia

BAT Australia represents approximately 45 per cent of the legitimate cigarette market in Australia with manufacturing operations in NSW and offices in each state and territory.

The company employs approximately 1000 people and indirectly there are a further 50,000 jobs linked to the industry in the retail sector alone. A large proportion of BAT Australia product is distributed by the retail sector of which there are approximately 35,000 retailers selling tobacco products currently.

4. Key Considerations for BAT Australia in Relation to the PICRIS

4.1. Nationally Consistent, Evidence Based and Proportionate Regulation

BAT Australia advocates evidence based and proportionate regulation. The PICRIS puts forward outcomes that are supported by further regulation. The regulatory environment is currently creating conflicting requirements for the tobacco industry brought about by these competing jurisdictional and agency interests. A clear example of this is the prohibition by the Tobacco Plain Packaging Act 2011 of the use of environmental educational messages such as the “Tidy Man” litter label on packaging of tobacco products. Another example is the prescriptive nature of plain packaging legislation concerning materials and pack design, in potential conflict with the objectives of seeking more sustainable outcomes within the APC, Sustainable Packaging Guidelines and the National Environment Protection (Used Packaging Materials) Measure (NEPM).

The Base Case in the PICRIS clearly demonstrates that current efforts are resulting in positive trends yet at the same time it is sufficiently flexible to continue to achieve positive results. BAT Australia is able to work constructively and proactively within the current product stewardship frameworks to achieve improvements in environmental outcomes for product and packaging.

The PICRIS suggests options which are based on a one size fits all approach and involve further commitments by businesses that are already actively engaged in this area. BAT Australia believes that evidence demonstrated in the PICRIS does not build a strong case for change however, should the decision be made to introduce regulatory change there are a number of considerations for BAT Australia.

4.2. Packaging Stewardship

BAT Australia regards minimising the environmental impact of our products, activities and services as an essential element in our duty of corporate responsibility.

The company has been committed to the principles of packaging product stewardship for over ten years, demonstrated through our support to the National and Australian Packaging Covenants. Our support is fully aligned with our Environmental Policy commitment to ‘develop our products to minimise environmental impacts’.

BAT Australia has been working effectively within the present product stewardship framework for packaging. Our achievements in this area are evidenced by our continuous improvement as reported for the National and Australian Packaging Covenants. These results are in line with the PICRIS research which states that ‘The national packaging recycling rate has increased ... Measured litter rates have also been decreasing in recent years... It is expected that the national packaging recycling rate will continue to improve and litter will continue to decrease under existing arrangements.’⁴.

⁴ *Ibid*

One of the concerns for the tobacco industry is addressing packaged products that are not captured under current schemes including illegal product and confusing product issues with those of packaging and consumer behaviour.

BAT Australia reduced its local manufacturing operations with the closure of its roll-your-own manufacturing facility in 2011. Further, during 2012 primary manufacturing operations will be discontinued, i.e. the processing of tobacco leaf. For the foreseeable future BAT Australia will continue to operate secondary manufacturing of cigarette products from its site in Pagewood, New South Wales.

The role of packaging in maintaining product quality and preserving shelf life has become more critical in the process and likewise the sustainable supply chain management is of increasing interest. This issue is not unique to BAT Australia and implementation timeframes for any regulatory changes need to account for these factors. Packaging stewardship is of increasing business benefit due to these changes.

Currently only three tobacco companies are captured by the NEPM / APC. These companies represent approximately 84% of total tobacco consumed in Australia (combined legal and illegal tobacco). An ongoing issue in relation to packaging waste in Australia is the lack of participation by importers and distributors and non-brand owners generally. With regard to tobacco, entities that are not brand owners and do not meet thresholds are mostly those that deal in illegal products and are therefore not interested in product or packaging stewardship.

4.3. Illegal Markets

Product stewardship regulations focused solely on brand owners as the liable entity and which apply thresholds for participation will ensure that the illicit tobacco markets continue to be devoid of responsibility in this area also.

The illicit tobacco market in Australia continues to grow. Counterfeit and contraband cigarettes and tobacco products make up the equivalent of almost 16% of the legal market. Illegal tobacco products deprive the government of more than \$1 billion in excise per annum.⁵

4.4. Integration and Involvement

An integrated and inclusive approach to problem solving is preferred however tobacco products are highly regulated and this brings with it particular challenges for environmental sustainability such as the removal of cigarette butt bins and ashtrays from public places opposed to smoking.

4.5. Litter Reduction

The PICRIS states that packaging makes up a significant proportion of the litter stream, and in FY10 it was estimated that 87% of litter by volume was packaging.⁶

The PICRIS is concerned with packaging impacts and the focus on packaging and recycling is likely to have follow on benefits in relation to litter which it considers to be an externality. Whilst cigarette butt litter is prevalent in terms of the number of items littered⁷ it is not a packaging problem.

An increase in industry obligations via regulation, to achieve a reduction in packaging and product litter is a part solution only. Without nationally consistent littering behaviour enforcement options to underpin education and infrastructure efforts there is no consumer accountability, which limits the results that can be achieved. BAT Australia supports awareness and infrastructure projects to reduce litter as can be demonstrated by ongoing contributions to litter reduction programs and sponsorship of agencies such as Keep South Australia Beautiful (KESAB) now the managing organisation for the Butt Littering Trust founded by BAT Australia.

⁵ Deloitte, "Illicit Trade of Tobacco In Australia", February 2011

⁶ Standing Council Environment and Water, Attachment A: "Problem Statement for Packaging Environmental Protection Heritage Council", p 14.

⁷ *Ibid.*

Although it was decided in 2011 that Butt Littering Trust was no longer the best suited means of meeting BAT Australia's objectives in reducing butt litter it was highly successful in many respects. In the first four years of the Trust, BAT Australia donated \$2.8 million to integrate and implement five Butt Free Solution Strategies:

1. The provision of appropriate and convenient infrastructure to make sure that smokers have the physical means and options to dispose of cigarette butts correctly;
2. Building smokers' awareness of the personal and environmental impacts of butt littering;
3. Creating valued contexts, where smokers are less likely to inappropriately dispose of cigarette butts;
4. Utilising face-to-face communication to gain a personal commitment from smokers to dispose of their cigarette butts correctly; and
5. Encouraging integration of litter legislation and enforcement.

The Trust conducted research which demonstrated that the littering behaviour associated with butt litter was attributed to different thinking about the impact of a single cigarette butt compared to items that are larger, such as packaging.

One lesson learned as a result of BAT Australia's involvement with the Trust is that industries and companies working in silos often results in disjointed, even duplicated efforts and confused approaches to consumer education.

BAT Australia has contributed significant financial resources in seeking litter reduction and will continue to support initiatives with similar objectives particularly where there is broader industry commitment and contribution.

BAT Australia recognises the sale of tobacco products and packaging contributes to the litter stream. The solutions to the problem of litter however rely on all stakeholders working together on a nationally consistent approach and its implementation. There is greater traction to be achieved from all parties working together.

4.6. Packaging Design and Recyclability

Primary packaging relating to tobacco products is considered a composite product due to the different layers of materials composing the one pack – fibreboard packet, internal foil liner, polypropylene outer wrap. As a result tobacco packaging cannot be considered to be recyclable. In addition, as the packet is small relative to a beverage container, the size of the packet is not easily recovered by material recovery facilities which have been traditionally geared towards recovery of larger, rigid containers and paper collected via domestic kerbside collections.

The packaging components, materials and design are to some extent now controlled by the *Tobacco Plain Packaging Act 2011*. Graphics and labelling to facilitate responsible disposal, recycling, recyclability, recycled content and or anti-litter messages are banned by this Act.

BAT Australia is committed to pursuing better environmental outcomes and maintains that the most effective way to achieve this is to provide stakeholders with freedom within a framework that provides clear objectives and targets. BAT Australia has established frameworks within the business to ensure better environmental outcomes to be partly achieved by way of the environmental management system and directed by an overarching environment policy.

Co-regulatory frameworks provide scope for industry and other stakeholders to apply innovative and sustainable solutions to achieve desirable 'win-win' outcomes.

5. BAT Australia Response to the Questions Asked in the PICRIS

5.1. Background and Context

What do you think are the future challenges relating to packaging and packaging waste?

- As supply chains become more international the issue of imported products and packaging will become more challenging. The issue of imported products has not been previously adequately addressed to ensure a fair and even playing field for local manufacturers and legitimate businesses. Illicit products are a significant issue for the tobacco industry.
- In the case of BAT Australia, many of the decisions related to packaging and supply are not made by BAT Australia locally. Brand guidelines are developed for an international market and much production is based overseas.
- As for many companies, BAT Australia has an international supply chain and long lead times which affects the ability to move quickly.
- Currently imported products are not required to meet the guidelines for sustainable packaging placed on local manufacturers. This has the potential to place local manufacturers at a competitive disadvantage to overseas manufacturers.

5.2. Nature and Extent of the Problem

Do you agree with the packaging resource recovery and litter management problems identified above?

- BAT Australia agrees that cigarette butt litter and tobacco packaging are present in litter and that consumers have a responsibility to dispose of both, responsibly.
- The lack of a consistent approach to regulation and enforcement around Australia related to the issue of litter and littering behaviour undermines industry efforts in relation to litter reduction education and infrastructure. A better coordinated effort by all parties and nationally would be more beneficial.
- There is a lack of co-ordination between local councils and consistency in their views of tobacco products. Councils have at times removed infrastructure that would otherwise encourage responsible disposal of cigarette butts. Engagement of stakeholders and gaining agreement for consistent approaches to discourage littering is challenging.
- The free rider issue for the legitimate tobacco industry in Australia is significant. All manufacturers and importers and distributors of tobacco in Australia should be captured and not be able to opt out or apply for exclusion from the process

Are there any problems with packaging resource recovery and litter management that have not been identified in Chapter 3?

- The tobacco industry is restricted in its ability to make innovative changes to packaging as a result of Tobacco Plain Packaging Act 2011 which is prescriptive in its requirements relating to materials, design and graphics.
- More recent research and measurement tend to focus on the number and type of items littered and not the people or behaviours that contribute to it
- Educational efforts to encourage consumers to place product, packaging and materials in the correct bins where available will in the current environment provide little gain for recovery and recycling rates where the recovery facilities are unable to process them for recycling. Currently flexible packaging and small packaging items such as those used for tobacco products are not able to be recovered efficiently via these processes regardless and end up as waste at the material recovery facilities (MRF).
- Existing and new infrastructure, for example MRFs, needs to have the capacity to recovery non-beverage packaging. Currently these facilities are not specifically geared to maximise recovery of items that are of a size, weight or materials that are not consistent with beverage and grocery product containers. For example, flexible and lightweight packaging such as for roll-your-own tobacco and confectionary packets and small fibreboard packaging items such as cigarette packets are difficult to recover in existing MRFs. Flexible packaging is not new to the tobacco industry which has used this packaging for many years. It is only recently that other product owners and manufacturers are realising the many benefits, environmental and other, that flexible packaging provides.
- It is BAT Australia's experience that continued expansion and improvement of current services within the municipal sector cannot be assumed for litter management. Local councils have been removing litter management infrastructure, particularly related to cigarette butts. New laws for

smokers further restricting where they can smoke could make it easier or more difficult to target littering behaviour. Local government remains an important stakeholder and it is desirable that they are aligned in their approach and better still that they are willing to work with all stakeholders to implement solutions that address all concerns and not in isolation.

What impacts do fragmented and inconsistent frameworks for packaging resource recovery and litter management have on your business? What are the scale and scope of these impacts?

- Any tobacco industry or company efforts to educate their consumers are not able to be delivered in a way that associates an activity with a tobacco product, brand or company – i.e. educational programs, sponsorships etc. cannot in any way promote tobacco and or tobacco companies.
- The objectives of different agencies create challenges in meeting the objectives of each. A recent example is the Tobacco Plain Packaging Act 2011 whereby the Act seeks to ensure no messaging is used that does not relate directly to health impacts or product. The Sustainable Packaging Guidelines under the Australian Packaging Covenant suggest that companies look at labelling directed at material content, recyclability and anti-littering for example, to encourage responsible behaviour and improve awareness and thereby support better environmental outcomes.
- The lack of a nationally recognised labelling system and the proliferation of independent labels and logos has created confusion amongst consumers and diluted opportunities for clear, concise and consistent messages to do with both litter management and recycling and disposal of packaging and products. Consistent labels and messages would better support packaging stewardship programs and clear up consumer and business confusion about environmental labels and logos

5.3. Impacts Analysis

Are projected rates for packaging recycling and litter reduction realistic?

- Monitoring and measurement methods associated with litter counts need to be improved and be better linked to the individuals who litter and the attitudes that prevent these individuals from behaving responsibly.
- Projected rates are predicated on reduced volume and items. There is no data on the amount of litter by weight which is the measure used for the majority of other waste and recycling related measures. Weight based measurement would improve the context in which litter is viewed as part of the overall 'waste and recycling' problem.
- There is no current data related to individuals who litter and the circumstances and attitudes which bring about littering behaviour.
- Without the above information to better inform the planning and projects, the projected rates for litter reduction are ambiguous. Change in behaviour is the required outcome to combat littering and is needed to support better away-from-home recycling outcomes also. Any methodology or measurement it seems would be incomplete without this information.

What might be appropriate thresholds for industry obligations under Option 2?

- BAT Australia would support a 'no threshold' approach to Option 2a for the tobacco industry. The illicit tobacco market is a significant issue for the industry and the government and the problems stated within the PICRIS are not restricted to the legal market and brand owners in this case.

6. BAT Australia Response to the Options

Of the four options presented in the PICRIS and based on the evidence provided consideration must be given to the most sustainable option for the future.

To take a simple approach including accepting the information in the PICRIS and supporting documents at face value, the net present value figures presented in "Table 7: CBA Results Based on Market – Based Values (and Landfill Externalities)" of the PICRIS, Option 2a is the only option with a positive

result net present value (\$46 million). The Base Case or the current mechanisms represent the next best option. Option 1, the only non-regulatory option, is on par with the Base Case. These results suggest that the case for change is not a strong case. Where the only non-regulatory option achieves results on par with current practise and that given the suggested levels of investment the case for increased regulation is also poor.

Option 2a also achieves the better litter and landfill avoidance outcomes. Whereby option 2a represents the current framework re-structured under the Product Stewardship Act, this approach provides the freedom within a structured framework that industry understands and BAT Australia supports.

TABLE 7: CBA RESULTS BASED ON MARKET-BASED VALUES (AND LANDFILL EXTERNALITIES)

	Option 1	Option 2 (a)	Option 2 (b)	Option 2 (c)	Option 3	Option 4 (a)	Option 4 (b)
Costs (millions)	\$311	\$258	\$554	\$984	\$981	\$2,125	\$2,471
Benefits (millions)	\$262	\$304	\$503	\$786	\$786	\$710	\$710
NPV (millions)	-\$49	\$46	-\$51	-\$198	-\$195	-\$1,414	-\$1,761
BCR (number)	0.84	1.18	0.91	0.80	0.80	0.33	0.29
2035 recycling (tonnes)	4,222,000	4,200,000	4,264,000	4,497,000	4,497,000	4,313,000	4,313,000
2035 litter (tonnes)	30,000	31,000	29,000	22,000	22,000	28,000	28,000
2035 landfill (tonnes)	956,000	977,000	915,000	689,000	689,000	867,000	867,000

7. Conclusion

BAT Australia supports sound and sustainable environmental regulations. We believe that evidence demonstrated in the Packaging Impacts Consultation Regulatory Impact Statement (PICRIS) does not build a strong case for change however, should the decision be made to introduce regulatory change, we support Option 2a of the PICRIS.

BAT Australia has undertaken considerable efforts to date in the area of product stewardship with a focus on the broader issue of littering behaviour and the need to provide education and infrastructure to meet objectives. We wish it to be noted that as much as we support sound environmental policy as discussed in this submission, BAT Australia may be constrained in sustainable innovation due to our adherence to the requirements of the Tobacco Plain Packaging Act 2011.

It is important that further consultation involves all industry and Government stakeholders in order to achieve universal commitment to a solution. BAT Australia is committed to continued success in the area of product stewardship and would like to request involvement in further consultation, particularly where directly relevant to the tobacco industry.