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SICPA

John Glen  
Scottish Executive Health Department  
Tobacco Control Division  
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St Andrew's House  
Regent Road  
EDINBURGH  
EH1 3DG

20 February 2007

Dear Mr Glen,

**Consultation on under-age sale of tobacco**

I am writing to you to submit our views in relation to your department's consultation on raising the age of smoking in Scotland.

SICPA Holding SA is a multi-national company which produces security solutions for 95% of the world's banknotes. We are headquartered in Lausanne, Switzerland, with presence around the world including production facilities based in the United Kingdom.

In addition to our involvement with banknotes, SICPA is also a leading provider of security solutions in the excise goods and consumer goods fields. We have a deep understanding of the dynamics of the UK and global tobacco market from working in this area for a number of decades. SICPA's technology assists in countering the counterfeit and smuggling of excise goods, helping Customs in detecting, confiscating and prosecuting counterfeiters and smugglers. SICPA systems are used by a number of governments around the world. In addition, we are a global partner to several of the top tobacco manufacturers in providing anti-counterfeit solutions. In the UK we are working with industry and HM Revenue & Customs to see how we can take forward the measures outlined in the 2006 Budget to support the Tackling Tobacco Smuggling Strategy (HMRC, 2001).

We welcome the opportunity to submit our views in relation to raising the age of tobacco sales in Scotland. SICPA is responding to this consultation because we believe our detailed knowledge of smuggling and counterfeit tobacco products, both in the UK and abroad, may help the Scottish Executive in formulating enforcement strategies for an increased smoking age. We are also concerned that by raising the age of sale for tobacco in the legitimate

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retail chain, the illicit market will increase. I have outlined our submission in further detail below.

SICPA has entered into a number of confidentiality agreements with industry partners in relation to technology which is currently being developed. In addition there are potential forthcoming procurement opportunities for SICPA involving HM Treasury and HM Revenue & Customs. We are very keen to contribute our insights to the consultation process; however, we request that this response is treated with the utmost confidentiality as they may impact procurement processes underway. I enclose a completed annex D requesting this submission is treated as confidential.

### **Changing the age of sale**

The Scottish Executive has suggested in the consultation that the legal age of sale be raised to 18. We have supported this measure in England and Wales and have fed similar views into the Department of Health's consultation in September last year. SICPA is in support of option 2 to raise the smoking age to 18 with a short implementation period.

The current age endorses young people starting smoking at an age when they are most likely to become addicted, and thus smokers for life. Raising the minimum age sends out a clear message that tobacco is no less serious a killer than alcohol, and should be consumed with equal caution. However, SICPA does have significant concerns regarding how any alteration in the age of tobacco sale would be enforced.

**We believe raising the age of sale will serve to widen the illicit market and drive custom underground, as underage smokers find it increasingly difficult to obtain tobacco through legitimate and regulated retail outlets.**

This is already a problem in the UK, as was illustrated in a recent survey published in *Independent Retail News* (18 August 2006). The survey highlighted that one-in-five retailers said that the level of cigarette and tobacco smuggling had got worse over the past 12 months. 9% said that they had been offered counterfeit cigarettes to sell over the counter in the past year, a significant increase on the 5% figure in the 2005 survey. Of greatest concern is that nearly one in four retailers (24%) said they had been offered smuggled products over the past year, again a significant increase on the 13% figure in the 2005 survey.

A change to the current legislation is thus likely to create a greater demand for smuggled and counterfeit tobacco products, which already command a significant share of the market: HM Treasury currently loses an estimated £2.9bn every year through taxes which are not paid via the illicit market (a

fact highlighted in the 2006 Budget document *Reinforcing the Tackling Tobacco Smuggling Strategy*). We are in discussions with HMRC and the tobacco industry about implementing a solution to allow authorities to reduce this market share through the implementation of technology to aide the authentication of genuine products and the identification and confiscation of illicit product by Customs.

In preparing this consultation response we have noted that HM Treasury does not currently keep statistics or make any estimates of the level of underage smokers who smoke illicit tobacco products. This was confirmed in a recent answer from the Treasury in response to a PQ from Colin Breed MP, the Liberal Democrat Treasury Spokesperson, who asked the Chancellor of the Exchequer what estimate he had made of the number of under-age smokers purchasing smuggled and counterfeit tobacco products (*Hansard*, 12 July 2006). In his response, John Healey conceded that HMRC have made no estimate of the number or proportion of smokers who are under age and purchase smuggled and counterfeit tobacco. We would recommend that this is an invaluable piece of research which should be conducted prior to reaching a conclusion regarding this consultation. It would be interesting to see if this was a statistic that the Scottish Executive felt there was merit in collecting especially given the potential for growth of the illicit market due to raising the smoking age.

### **Sanctions against retailers**

The smoking age consultation requests suggestion on preparatory work that the Scottish Executive might undertake prior to implementing a change in smoking age. One area we recommend you consider is the system of licensing whereby a positive licensing system is enforced across Scotland in respect to tobacco sales.

We disagree with the findings of the Smoking Prevention Working Group's report that recommends a negative licensing system. We believe negative licensing would be unwieldy in terms of its enforcement and not as successful as a positive licensing system. The fines which have typically been levied upon retailers trading tobacco to underage consumers are insufficient as a deterrent. The very fact that retailers would be allowed to continue to trade as before without having to apply to the local authority for a new license would, we believe, undermine the gravity of the message which the Executive wishes to convey.

If retailers have to apply for a specific license it would be very clear that it is incumbent upon the retailer to enforce the law. The act of applying for a license could in itself be an opportunity to educate retailers about the

importance of not selling tobacco to underage consumers and the severity of penalties which exist if this law is broken. If the age of sale were raised to 18 this could be brought in line with the restrictions imposed upon alcohol sales. For instance, we welcome the current 'Think 21' initiative, where consumers can expect to be asked to produce identification if they look under 21. This would also serve to reinforce the message that tobacco is considered as serious a threat to the public health as alcohol. We also support measures such as the Young Scot branded PASS accredited proof of age card.

A positive system of licensing would be best enforced if it was backed up by a secure solution which would allow authorities to identify and authenticate illicit product. For instance, a system that incorporates details of a tobacco product's provenance and destination would allow authorities to track back confiscated product to the retailer who sold the tobacco to an underage person. Such a system would include a monitoring system for real-time reconciliation of production, distribution and tax collection data. If these details were held on a central database for production and movement data storage, which could be merged with the database of licensed retailers, it would not only act as a severe deterrent, but make identification of the transgressors easy and also allow enforcement to identify unlicensed dealers.

The technology allows a "chain of custody" to be documented. Hand-held devices for immediate validation of any item at any stage of the supply chain exist; distributors and retailers are equipped with these scanners to check on products' legitimacy along the supply chain. The access to such technology also means that in theory tobacco products seized 'off the street' from underage smokers can be traced back to the supplier or retail outlet from where they were obtained. We understand that HM Treasury are currently considering a number of systems for reinforcing authentication, possibly including this type of track and trace system.

### **California: an example**

A solution similar to the one being proposed here was sought by the State of California, which estimated losses of \$292m each year from cigarette tax evasion. California required a vendor to provide a stamp with new security technology and the associated application machinery for licensed distributors; SICPA was the winning bidder and started installing new equipment in January 2005. In the immediate wake of the implementation of a track and trace solution, the following statistics were recorded:

- Rate of seizures dropped by 5% from 1 December 2004 – 30 June 2005 (to 487 seizures out of 4408 inspections), illustrating a greater program compliance at retailers.

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- Overall total revenue increase in FY 04 / 05 of \$82,125,821.
- Of the 31 seizures tested, 45% of retailers found with counterfeit tobacco products (against estimated figure of 30%) illustrating a greater penetration of legitimate supply chain by counterfeit tobacco than originally thought.

California is continuing to record improvements in tobacco taxation revenue and a reduction in penetration of smuggled and counterfeit cigarettes. Furthermore, this system has allowed authorities in California to track back legitimate product sold to underage smokers to the retailer in order to prosecute them.

### Conclusion

In summation, SICPA:

- Supports the Executive's second option for raising the minimum age of sale for tobacco products to 18 with a 6-12 month implementation period.
- Believes that a system of positive licensing would, in contrast to what the Smoking Prevention Working Group has suggested, be the most efficient way of enforcing the increase in the minimum age of sale for the reasons outlined above.
- Recommends that statistics are kept on the level of illicit tobacco being smoked by underage smokers in order to track the effectiveness of this strategy and its impact upon the illicit market in tobacco products in Scotland.

If you have any questions relating to any of the points outlined in our response, or if you wish to receive further information on work SICPA or our experience in California, please do not hesitate to contact me. I look forward to reading the outcome of this consultation in due course.

Yours sincerely



**Neil Coupland**

Director of Product Security, SICPA