

*Emailed*

*01-26*

**Smith L (Lee-Anne)**

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**From:** Glen J (John)  
**Sent:** 22 February 2007 13:25  
**To:** Smith L (Lee-Anne)  
**Subject:** FW: Age of Sale Consultation

Lee-Anne

To note.

**JOHN GLEN**  
**Tobacco Control Team**  
**Public Health & Substance Misuse Division**  
**Area 3 E**  
**St Andrew's House**  
**EDINBURGH**  
**EH1 3DG**

-----Original Message-----

**From:** Gill Silverman [mailto:gsilverman@the-tma.org.uk]  
**Sent:** 22 February 2007 12:14  
**To:** Glen J (John)  
**Subject:** Age of Sale Consultation

\*\*\*\*\*  
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Dear Mr Glen

I attach the TMA's response to the age of sale consultation. A copy has been sent in the post.

Gill Silverman  
Media and Information Manager

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[www.the-tma.org.uk](http://www.the-tma.org.uk)

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01-26

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our ref: TL/vt/1827  
date: 22 February 2007



John Glen Esq  
Scottish Executive Health Department  
Tobacco Control Division  
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Regent Road  
Edinburgh EH1 3DG

Dear Mr Glen

**Consultation on the Draft Smoking, Health and Social Care (Scotland) Act 2005 (Variation of Age Limit for Sale of Tobacco Purchase and Consequential Modifications) Order 2007**

We are responding to the above consultation on behalf of the principal members of the Tobacco Manufacturers' Association (TMA) - British American Tobacco<sup>1</sup>, Gallaher Ltd and Imperial Tobacco Limited (UK). Some of those members may also choose to respond to the consultation in their own right. We enclose a completed Respondent Information Form.

We have responded separately to the consultation on the report (the Report) of the Smoking Prevention Working Group (published on 22 November 2006): "Towards a Future Without Tobacco". Recommendation 7 of the Report proposes the raising of the minimum age of purchase of tobacco products from 16 to 18 years old, and having a sufficient transition period to prepare retailers and consumers for this change. For ease of reference, we enclose an extract from our response (the Response) dated 22 February 2007 to the consultation on the Report in relation to Recommendation 7, as well as to Recommendations 5 and 6 therein as these Recommendations are inter-linked.

With regard to the above-referenced consultation on the draft Order, we would reiterate the points contained in the enclosed extract from our Response and emphasise:

- the importance which TMA member companies attach to the prohibition of sales of tobacco products to those below the legal minimum age of purchase being fully respected and observed at all times, as well as being actively enforced by the relevant authorities;
- the importance of retailers being provided with all help possible to enable them to fully understand and to implement the law effectively;

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<sup>1</sup> British American Tobacco: British American Tobacco (Holdings) Limited and British American Tobacco UK Limited

- the significant role that proof-of-age schemes, such as Young Scot, CitizenCard and the 'No ID, No Sale' campaign, play in facilitating retailers' compliance with the law; and
- the intention of the TMA and its member companies to continue to provide whatever practical assistance is possible to retailers, both through their substantial support for CitizenCard/No ID No Sale and through their trade sales teams.

We agree that there should be a transition period before any new age threshold for purchase of tobacco products is brought into force to allow for any new provisions to be brought fully to the attention of retailers and young people. In our view, a transition period of at least 9 months is necessary.

Yours sincerely

V Tallowatt

AP TGF Lord  
Chief Executive

**Enclosures:**

1. Completed Respondent Information Form
2. Extract from the TMA's Response dated 22 February 2007 to the consultation on the Report

**1. Recommendations 5 (efforts to enforce the minimum age of purchase), 6 (introduction of a negative licensing scheme) and 7 (raising age of purchase from 16 to 18 years and preparing retailers and consumers for this change)**

The member companies of the TMA believe that smoking should only be for adults, who should be free to make an informed choice about whether or not to smoke.

The minimum age at which it is legally permissible to purchase tobacco products in Scotland is a matter for the Scottish Parliament to determine.

The SPWG was specifically asked by the Scottish Executive to advise on the question of evidence to support the raising of the legal minimum age of purchase of tobacco products from the current age of 16 years old. The Report found that there was no clear evidence that raising the legal minimum age of purchase of itself reduces under-age smoking rates.

The Report also found, however, that research suggests that vigorous enforcement of a legal minimum age of purchase could be effective in reducing under-age sales, although intervention studies showed that the impact on actual smoking behaviour was weaker, not least because there are means of access to cigarettes other than by purchase at retail outlets.

Whatever decision is taken by the Scottish Parliament regarding the minimum age of purchase, it will need to be consistently enforced by the relevant authorities. As the SPWG recognises, increasing the minimum legal age threshold in isolation from the "active and widespread" enforcement activities recommended in the Report is unlikely to result in any measurable reduction in under-age smoking rates. Due regard should also be given to the fact that 27%<sup>7</sup> of cigarettes consumed in the UK have not had UK duty paid on them and are not purchased in legitimate retail channels. Again, appropriate resources should be deployed on enforcement activities to address this issue.

Rigorous enforcement of the law by the authorities sends a strong message both to potential under-age purchasers and to all tobacco retailers, including those few retailers who persistently flout the law and who should be penalised. Thus, the TMA fully supports the SPWG's recommendation of the introduction of a 'negative licensing scheme' that would enable prosecution of persistently offending retailers, who would be prohibited from selling tobacco products for a specified period.

The TMA believes, however, that helping retailers to fully understand, and to comply with, the law is of much greater importance than the Report appears to consider. The vast majority of retailers are very responsible, and are strongly committed to upholding the law and to refusing sales of tobacco products to those who they believe to be under-age. It is vital that enforcement is targeted effectively at that small minority who deliberately disregard the law. There are ways in which retailers can, and should, be helped to ensure that the minimum age of purchase requirement is effectively and consistently applied.

Over the last 9 years, the TMA's member companies have provided substantial financial and other support to establish and expand the "CitizenCard" proof-of-age scheme. CitizenCard is now the largest such scheme in operation, with over 1.5 million cardholders. Over the last two years, the sales forces of the TMA's member companies have visited many thousands of UK retail outlets selling tobacco products to provide materials and to promote the campaign run

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<sup>7</sup> TMA estimate for 2006

under the slogan 'No ID No Sale'. The packs distributed to retailers provide staff training advice, display notices, CitizenCard application forms and a refusals register. The success of both CitizenCard and the 'No ID No Sale' campaign demonstrate, we believe, the strong commitment of the UK tobacco manufacturers and retailers to ensuring that the law on the age of purchase of tobacco products is fully respected and observed.

In Scotland, CitizenCard operates alongside the "Young Scot" ID card scheme - principally by issuing cards on request, and most frequently after referral of a person who is unable to obtain a Young Scot card by virtue of the card not being available to them in their local area.

The more young people who hold a proof-of-age card, the more effective will be the observance and enforcement of the law on under-age sales, not just of tobacco products but of other age-restricted products such as alcohol, glue and knives. It is then more practicable for retailers to make the presentation of such a card a condition of sale, thereby minimising any possible consequences of refusing a sale merely on the basis of a subjective judgment about the apparent age of a person. Enforcement of the minimum age of purchase requirements against retailers must go hand in hand with increased support for retailers to ensure they do fully understand and are able to comply with such requirements.

Accordingly, the TMA supports the SPWG's recommendation that there should be a sufficient transition period between amendment and implementation of any such legislation to ensure that retailers and consumers are properly informed of, and prepared for, any new minimum legal age of purchase for tobacco products. Our view is that this transition period should be of at least a nine months' duration.