



PHILIP MORRIS SOUTH AFRICA (PTY) LTD

3rd floor, Centrepont Shopping Centre, Loxton Road, Milnerton, 7441
Telephone: (021) 527 4840 – Telefax: (021) 527 4841
Company Registration No 2003/026586/07 VAT Registration No 4710210230

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Mr Arico Kotze
Committee Secretary: Select Committee on Social Services
National Council of Provinces
Plein Street
Cape Town

Per fax: 021 403 2808

Dear Mr Kotze,

TOBACCO PRODUCTS CONTROL AMENDMENT BILL – COMMENTS BY PHILIP MORRIS SOUTH AFRICA (PTY) LTD (“PMSA”)

Please find herewith PMSA's response to the recent press advertisement calling for written comment on the Tobacco Products Control Amendment Bill (B 24B-2006) (the “Bill”).

Our company strongly supports comprehensive tobacco regulation. We believe that regulation is the most effective way to articulate and enforce rules for the tobacco industry and provide assurance to governments, the public health community, and consumers that the manufacture, marketing, sale and use of tobacco products take place within a prescribed public health-based framework to reduce harm. In this context we have welcomed the decision of the South African government to supplement its existing legislation regarding tobacco control.

PMSA already voiced its support for many provisions of the Bill at the public hearings held by the Portfolio Committee on Health earlier this year, including, amongst others, product standards for all tobacco products and public smoking restrictions. PMSA was also the first tobacco company to voluntarily provide the Department of Health with a list of the ingredients used in its cigarettes, although this is not yet required by law.

In addition to our views presented during the public hearings we would like to share with you comments on two specific changes envisaged in the Bill:

1. Definition of “ingredient” – Section 1, Paragraph (c)

We support regulation of ingredients used in tobacco products. However, our view is that “ingredients” should be defined as the term is generally understood – substances intentionally added to the product.

Residues of agricultural substances (i.e., crop protection agents) (“CPAs”) and packaging materials migrants, which are in the current definition, should be regulated, but separately from ingredients, in order not to blur distinct assessment and regulatory goals. Such an approach is supported by examples from other related industries. For example, it is the norm to have separate regulations for food ingredients, pesticide and other chemical residues in foods, and food contact materials (packaging).

Thus, we suggest that the definition of “ingredients” focus on substances directly added to tobacco. This would include ingredients added to tobacco leaf and other natural or processed tobacco plant parts such as reconstituted tobacco and expanded tobacco and to non-tobacco materials, e.g., filters and cigarette papers, used in the manufacture or preparation of a tobacco product and still present in the finished product, even if in an altered form, which is the definition in the governing directive in the European Union.

We would support provisions in the law that would require regulation of CPAs and packaging materials, as follows -

Crop protection agents and other chemical residues:

Today, some countries regulate the use of pesticides for tobacco crops, including through “maximum residue levels” (“MRLs”), and there are tobacco industry guidelines which address MRLs. But “[w]hile much is known about the significant health risks of tobacco products, limited information exists on the extent to which the use of pesticides on tobacco may increase the considerable health risks associated with tobacco use itself.”¹ Science-based internationally recognized MRLs, therefore, should be developed for tobacco CPAs. The goal should be to ensure that CPA residues in tobaccos comply with the lowest achievable MRLs through the implementation of Good Agricultural Practices (“GAP”). As with other elements of tobacco product regulation, the regulation of CPAs used on tobacco crops should not result in a *de facto* prohibition of tobacco products. This means that MRLs should be developed that take into account the need to protect tobacco crops from pests and diseases, the availability of feasible alternatives, such as biological controls, and the availability of commercially viable sources of tobacco that comply with the standard.

We also believe that a rule limiting or prohibiting a CPA must allow sufficient implementation time for farmers to adjust their growing practices and to permit the continued supply of commercially needed amounts of tobacco.

Pending the development of science-based MRLs for tobacco crops, regulations could require manufacturers to establish programs and procedures to monitor and test CPA residue levels in the tobacco they purchase and to submit to regulators a detailed report describing their CPA monitoring and testing program. The report should allow regulators to know which CPAs are being tested, the frequency of the testing for residue levels, and the analytical methods used in the testing. Regulations should also require manufacturers to establish GAP as a condition for the sourcing of raw tobacco, which should, among other things, include initiatives to work with the tobacco growing community to reduce the number of CPAs used and their residues.

¹ U.S. General Accounting Office, *Pesticides on Tobacco: Federal Activities Risks and Monitor Residues* at page 1, <http://www.gao.gov>.

Packaging materials:

Cigarette manufacturers should be required to report on an annual basis the type(s) of packaging materials used for each of their brands, with appropriate protection for confidential proprietary information, if any. Packaging materials should be defined broadly as all materials that constitute the packaging in which tobacco products are sold to consumers, including inner foil, hinge pack lid, soft pack, poly wrap, tear tape, inner frames, packaging inks and adhesives.

In addition to reporting packaging materials, manufacturers should be required to report levels of major potential migrants from packaging. Potential migrants that should be reported include solvents (e.g., ethanol, isopropanol), selected monomers (e.g., styrene, vinyl acetate), and additives, for which specific migration limits have been established in other consumer goods regulations. In addition to disclosing potential migrants, we recommend that regulations require that packaging materials used for tobacco products comply with the standards set forth in European Directives governing packaging and other materials intended to come into contact with foods.²

2. Definition of “tobacco product” – Section 1, Paragraph (h)

We support the broadened definition of “tobacco product” as contained in the Bill.

We believe that regulation should apply equally to manufactured cigarettes and other tobacco products, such as roll-your-own tobacco and smokeless tobacco. Regulation of other tobacco product categories is crucial, particularly with the growing popularity of other tobacco products, often as a consequence of lower tax rates. For the same reason that public health groups argue for equivalent taxation on all forms of tobacco products, equivalent product regulations should apply to all tobacco products.

² See Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC; Directive 2002/72/EC of the Commission of the European Communities of 6 August 2002 relating to plastic materials and articles intended to come into contact with foodstuffs (latest Amendment: Directive 2007/19/EC).

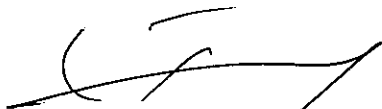
ABOUT PMSA

PMSA is an affiliate of PMI, which is one of the largest tobacco companies in the world, operating in around 160 countries.

PMSA withdrew from the South African market in the 1980's because of the apartheid regime then in power. PMSA returned to South Africa in 2003 and has since established offices in Cape Town (head office), Johannesburg, Durban, Port Elizabeth and Bloemfontein. We currently employ around 120 people and are committed to responsibly growing our share of the adult smoking market here.

Please do not hesitate to contact me should you have any queries or require any further information in relation to the above.

Yours faithfully



Ulreich Tromp
Manager – Corporate Affairs