

# **Analysis of the UK Government's Impact Assessment for a Generational Sales Ban on Tobacco Products**

## **Introduction**

This analysis scrutinises the Department of Health and Social Care's (DHSC) Impact Assessment (IA) for a proposed generational sales ban (GSB) on all tobacco products sold in the UK. The IA contains significant shortcomings, raising serious questions about its appropriateness as a basis for evaluating the proposed measure. In particular, this evaluation focuses on the absence of consideration and analysis with respect to a number of tobacco products targeted within the scope of the proposed GSB, namely, cigarillos, cigars, pipe tobacco and snuff. Referred to collectively as Other Tobacco Products (OTPs), these products accounted for a 1.2% share of the UK Tobacco market as of 2022 (Source: HMRC Tobacco Clearance Data).

## **Overgeneralisation of Tobacco Products**

One of the most glaring issues with the IA is it is an overgeneralisation of tobacco products. Throughout the document, the IA frequently refers to 'tobacco products' as a homogeneous group when discussing the GSB. This blanket approach neglects to consider and acknowledge that OTPs have vastly different usage patterns, market dynamics, and consumer demographics compared to cigarettes and hand-rolling tobacco, the consequences of which are critical for a proper assessment of the proposed policy as it applies to OTPs.

The extent of the problem is illustrated by the data and evidentiary sources cited to support both the rationale for a GSB and to evaluate its effectiveness in achieving its underlying policy objectives. In making the case for a GSB, the IA relies in its entirety on evidence pertaining to cigarettes and hand rolling tobacco. In fact, the word "cigars" appears only once in the 164-page document, snuff appears twice, and pipe tobacco is mentioned three times, while cigarillos are not referenced at all. The IA's failure to distinguish between OTPs and cigarettes and hand-rolling tobacco is a critical oversight that undermines the validity of its conclusions, which are generalised across all tobacco products for purposes of assessing the policy.

## **Absence of Analysis and Evidence for the Inclusion of OTPs**

The central flaw of the IA is its complete lack of analysis and evidence to justify the inclusion of OTPs in the proposed GSB. The IA provides no specific data or evidence demonstrating that the inclusion of OTPs will meaningfully contribute to achieving the GSB's objectives, namely, preventing youth smoking initiation, reducing tobacco addiction and improving public health outcomes. The question of the contribution of OTPs to achieving these goals has simply not been addressed. This amounts to remarkable omission for a process designed to ensure sound policy making.

The evidence base cited in the IA relies exclusively upon data pertaining to cigarette and hand-rolling tobacco. The data sources used, which include various government smoking and lifestyle surveys and reports, such as the *ONS Adult Smoking Habits in the UK*, *ONS Opinions and Lifestyle*

Survey, ONS General Lifestyle Survey, NHS Smoking, Drinking and Drug Use Among Young People in England, and the ONS Annual Population Survey, rely completely on survey responses related to cigarettes and hand-rolling tobacco. These data sources do not include cigarillos, cigars, pipe tobacco or snuff in their survey questions due to their statistical insignificance. As a result, the IA generalises findings related to cigarettes and hand-rolling tobacco to all tobacco products without considering the distinct nature of OTPs. This approach not only ignores the unique characteristics of OTPs in terms of their market structure, distribution networks, consumer age profile, patterns of use and addictive potential, but in doing so fails to provide a rationale for their inclusion in the GSB. The IA's failure to justify the inclusion of OTPs in this broad policy measure exposes a lack of thorough consideration and analysis, which will lead to disproportionate and unintended consequences for the SMEs, micro businesses and their employees, which comprise the sector.

### **Absence of Demographic Considerations**

Another critical flaw of the IA is its failure to consider the demographic characteristics of OTP users. According to the most recently available data, 90% of cigars users are over 25 years of age and 78% are over 35. In the case of pipe tobacco, 97% of users are over 25 years of age and 94% are over 35. The IA, however, makes no distinction between the demographics of cigarette users and OTP users, leading to a one-size fits all policy assessment that does not fit the realities of the tobacco market.

The IA correctly identifies youth smoking initiation as the primary driver of tobacco addiction, overall smoking prevalence and the societal consequences of cigarette and hand rolling tobacco use. However, it provides no evidence that OTPs are contributing to youth smoking initiation. Rather, in considering the question of youth smoking initiation, the IA's analysis relies exclusively on data and survey evidence pertaining to cigarettes and hand-rolling tobacco. By failing to consider OTPs in its analysis, the IA conflates the benefits of banning cigarette and hand-rolling tobacco sales with those of a broader untested policy of including OTPs in a GSB. The IA's failure to provide a specific assessment of OTPs' impact on youth smoking initiation and overall smoking prevalence further underscores the inadequacy of the IA as a basis for assessing the proposed policy. Without such analysis and evidence, the inclusion of OTPs in the generational sales ban cannot have been adequately assessed.

### **Policy Options and Modeling**

In its assessment of the policy options considered by the DHSC, the IA presents the generational sales ban as a comprehensive solution to achieving the government's public health goals of preventing youth initiation, tobacco addiction and long-term smoking. It does so by contrasting a "doing nothing" option with the proposed generation sales ban. However, the IA does not explore alternative policy options that could specifically target the products most responsible for youth smoking initiation, namely, cigarettes and hand-rolling tobacco. Nor does it assess the potential public health, economic and societal benefits of such a targeted approach. Rather, the IA presents a model of the expected impacts, benefits and effect sizes that relies exclusively on data sources pertaining to cigarette and hand-rolling tobacco use, with no corresponding analysis of OTPs. In doing so, the IA repeats the error of generalising findings

specific to cigarettes and hand-rolling tobacco to all tobacco products. This approach, once again, conflates the outcomes of two distinct policy approaches: the broad one proposed, which includes OTPs, and the narrow one actually evaluated, which only considers cigarettes and hand-rolling tobacco.

## **Impacts on Businesses**

In addition to the failure of the IA to include OTPs with the scope of its analysis of the problem to be addressed, the policy options considered, or the modeling of the measure's health and societal impacts, the analysis provided also demonstrates a lack of consideration of consequences of the measure for the SMEs and micro businesses that comprise the OTP sector.

Specialist tobacconists, a category of tobacco product retailers who are given special status in UK legislation for tobacco advertising and promotion, are heavily reliant on OTPs sales, which, in the case of handmade cigars, account for approximately 70% of their revenue. These businesses are particularly vulnerable, yet the IA does not mention them or analyse the potential consequences of a GSB on their operations. Instead, the IA's modeling of impacts on the retail sector is based solely on cigarette and hand-rolling tobacco sales, using average price, profit margin and consumption values data from convenience stores, petrol shops and supermarkets. Nor does the IA differentiate between the economic effects on general retailers, who sell a wide range of products, and specialist tobacconists, who do not offer a similar range of products. In estimating the ability of general retailers to at least partially offset the loss of low margin cigarette sales through increased profits on higher margin goods and services purchased in place of tobacco, the IA ignores entirely the almost complete reliance of specialist tobacconists on the sale of high margin OTPs for their survival as going concerns.

The IA also overlooks the economic impact on OTP importers and distributors, who are responsible for 90% of OTP sales in the UK. The lack of any mention of these key players in the IA's analysis suggests a significant gap in the assessment of a GSB's economic consequences. Without a thorough analysis of how the GSB will affect these businesses, the IA cannot provide a complete picture of the policy's potential economic impact.

In estimating the loss of profits for tobacco manufacturers and wholesalers, the IA again relies exclusively on data related to cigarettes and hand-rolling tobacco, taking no account of the loss of OTP sales for the businesses that comprise the sector. By not differentiating between tobacco products, the IA risks imposing disproportionate economic burdens on businesses that specialise in OTPs. The inclusion of OTPs in the generational sales ban could have sweeping consequences for the small businesses that specialise in these products, eventually leading to business closures and job losses, without delivering measurable public health, societal and economic benefits.

## **Conclusion**

This analysis underscores the significant shortcomings of the DHSC's IA in its handling of OTPs during the Conservative era. The IA's overgeneralization of tobacco products, lack of specific

analysis, and failure to consider the distinct market dynamics and demographics of OTP users reveal critical gaps in the assessment process. These oversights not only undermine the validity of the IA’s conclusions but also risk imposing disproportionate economic burdens on businesses reliant on OTPs, without delivering the anticipated public health benefits.

A revised IA is necessary to fully consider the impact on OTPs and ensure that policy decisions are informed by accurate, comprehensive evidence. This revision is crucial not only for fairness and accuracy but also to avoid the unintended consequences of poorly informed policies. The new government has the opportunity to address the shortcomings of the previous administration's handling of the IA process, ensuring that future assessments are robust, equitable, and reflective of the realities of the tobacco market.

### Summary Table of Key Findings (non-exhaustive)

<i>Issue</i>	<i>Location</i>	<i>Extracts from Impact Assessment</i>	<i>Observations</i>
<i>Data Used</i>	<i>Entire Report</i>	<i>All studies quoted/data provided based on cigarette smokers.  ONS 2022 Adult Smoking Study has been used as a source for UK based data.</i>	<i>No data has been collected by ONS on cigarillo, cigar, pipe tobacco or snuff consumption since 2016 due to ‘statistical insignificance’ of these products</i>
<i>Policy Options and Modelling of Impacts on Smoking Rates/Behaviours</i>	<i>Pages 26 to 55</i>	<i>The model used to assess the legislation relies exclusively on surveys of youth and adult cigarette smoking from which the use of OTPs has been excluded in the survey question.</i>	<i>No support for the inclusion of OTPs as contributing to the Bill’s objective of stopping youth initiation and nicotine addiction, a problem which is particular to cigarette and hand rolling tobacco consumption.</i>
<i>Retail Impact</i>	<i>Pages 56 to 62</i>	<i>All data has been based on cigarette sales via retail outlets such as convenience stores, petrol stations and supermarkets who offer a variety of products from which to generate other revenue.</i>	<i>No consideration of specialist tobacconists.  Cigar sales alone account for around 70% of their revenue.</i>
<i>Loss of Profit for Retailers</i>	<i>Sections 231 to 236</i>	<i>“We have used the average price of <u>cigarettes</u> and applied this to consumption values to estimate the loss in profit for retailers”. [Emphasis added]</i>	<i>Loss of profit resulting from decline in sales of OTPs, particularly for specialist tobacconists, has not been assessed.</i>

<p>Offset in Lost Profits from Expenditures on Other Products</p>	<p>Section 241 to 242</p>	<p>“It is likely that losses estimated will at least in part be offset by increased profits on goods and services purchased in place of tobacco. Specifically for retailers, these goods will also likely carry a higher profit margin than tobacco”.</p>	<p>There are no alternative products to OTPs that can be substituted in the case of specialist tobacconists.</p> <p>Cigar margins are around 40%, not the stated 6% for cigarettes.</p> <p>Impact on OTPs and specialist tobacconists not assessed or quantified.</p>
<p>Impact on Wholesalers</p>	<p>Section 252 to 255.</p>	<p>“The methodology for estimating lost profits for wholesalers is the same as for retailers above, with the only change being the overall profit per pack lost”.</p> <p>“Therefore, based on an estimated 4 billion fewer factory-made <u>packs of cigarettes</u> sold between 2027 and 2056, Table 23 shows the estimated total costs in lost profits to wholesalers in England and the UK (borne by all wholesalers of tobacco, and over 30 years)”. [Emphasis added]</p>	<p>Cigarette data used.</p> <p>Impact on OTPs not assessed or quantified.</p>
<p>Impact on Manufacturers and Shareholders:</p>	<p>Section 256 to 260</p>	<p>Profit estimates for manufacturers are based on information obtained through the Standardised packaging of tobacco (SPoT) impact assessment consultation. For manufacturers this was £0.22 per pack of factory-made <u>cigarettes</u>. In 2027 prices this is £0.29. [Emphasis added]</p>	<p>OTPs not considered as they are not subject to SPoT.</p> <p>Significant data has been shared on this in previous consultations.</p>
<p>Impact on Tourism</p>	<p>Section 299</p>	<p>“The smokefree generation policy may make the UK a less attractive place to come for tourists, immigrants, and international students that are smokers. As we do not have evidence on the impact this policy would have on tourism and immigration, we have not been able to quantify this impact. However, for the reasons explained above, we expect this impact to be minimal”.</p>	<p>UK reputation for centre of excellence for handmade cigars.</p> <p>Attracts collectors, tourists, connoisseurs who visit UK for this purpose. Their spend on hotels, restaurants, shopping is very significant.</p>

			Impact on tourism is significant.
International investment	Section 303	“As we do not have evidence on the impact this policy would have on international investment, we have not been able to quantify this impact”.	Cigars attract investment through hotels and restaurants who sell the product and invest significantly in their cigar offering or their clients.
Small and Micro Business Assessment (SaMBA)	Section 318, 319	<p>“Although we are aware of a limited number of small and micro tobacco product manufacturers that are based in the UK, who mainly appear to produce a diverse range of specialist tobacco products, <u>we have not been able to identify sufficient data on these businesses to estimate the loss in profit for these specific businesses as a result of the smokefree generation policy</u>”. [Emphasis added]</p> <p>“With reference to the RPC’s SaMBA checklist, the very limited data we have been able to identify does not enable us to: i) identify the number of businesses in scope of the regulation; ii) the market share of these businesses; iii) what the impact would be in these businesses - not least because we do not have data on what proportion of their sales are overseas to determine what proportion of their sales are unaffected by this policy”.</p>	<p>Significant representations were made clearly setting out the impact on these businesses and have been made in previous consultations.</p> <p>The Consultation response stated that the views of anyone connected to the tobacco industry had been disregarded. Manufacturers and Importers are obliged to submit this data to DHSC every year so it is readily available.</p> <p>Track and Trace requirements also mean this information is readily available.</p>