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7 September 2015

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*Dear Dr James,*

I welcome the findings of the Committee which commend the excellent collaboration between HMRC and the Revenue Commissioners, and the wider, cross-border law enforcement community.

Cross-border collaboration is an essential part of our fuel and tobacco anti-fraud strategies which have resulted in significant reductions in illicit trade. These strategies are kept under regular review as the challenges posed by cross-border illicit trade evolve. Since the inquiry, our joint HMRC and UK Border Force strategy for tackling illicit tobacco has been refreshed and was published on 24 March 2015. It is available via the following link:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418732/Tackling illicit tobacco - From leaf to light 2015 .pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418732/Tackling_illicit_tobacco_-_From_leaf_to_light_2015_.pdf)

The strategy sets how we are working with other enforcement agencies in the UK and overseas to target, catch and punish those in the evolving illicit tobacco market. It also includes the establishment of a cross-government ministerial group to oversee future evolution of the anti-illicit tobacco strategy. The strategy builds on the considerable success made in reducing the UK illicit cigarette market from 22% in 2000 to 10% in 2013, and from 61% to 39% for hand-rolling tobacco over the same period.

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Information is available in large print, audio and Braille formats.  
Text Relay service number – 18001



In response to fuel fraud, and as the result of ground-breaking co-operation between revenue authorities, HMRC and the Irish Revenue introduced the new fuel marker with effect from 1 April 2015. I welcome the Committee's support for the new marker which is a significant step forward in the battle against criminals who launder rebated fuel and sell it on for road use at a profit. As the introduction of any new controls can lead to the displacement of risk into other types of fraud, we are closely monitoring the impact of the marker as part of our continuous review of our oils anti-fraud strategy.

The Committee makes a number of findings and recommendations and I have set out our response in relation to those that refer in whole or part to HMRC in the attached annex.

Yours sincerely,



**LIN HOMER**  
**CHIEF EXECUTIVE**

## Annex – Response to specific recommendations

**G. Cross border enforcement groups establish a permanent full time task force dedicated to OCGs involved with cross border illicit trade, such a force should be comprised of seconded staff from all relevant agencies including environmental and criminal asset recovery agencies.**

There are a number of existing cross-border, multi-agency groups which provide a comprehensive strategic and operational framework for HMRC and other agencies on both sides of the border to work together to tackle illicit trade.

As noted by the Committee, there are two well-established Cross-border Fraud Enforcement Groups covering fuel and tobacco fraud. The aim of these groups is for law enforcement partners to share intelligence and work collaboratively, harnessing all available resources to tackle illicit trade across the border. These multi-agency groups are chaired by HMRC with representation from the Police Service of Northern Ireland, National Crime Agency (formerly SOCA), Revenue Commissioners and Criminal Assets Bureau.

These groups are producing significant results. In the last two years (2013/14 and 2014/15) 65 fuel laundering plants have been detected in Northern Ireland, and nearly 1.2m litres of fuel seized. In the last year joint cross-border tobacco operations have led to seizures of 38 million cigarettes, 11 tonnes of raw tobacco, 4.5 tonnes of shisha tobacco, a tobacco processing machine and significant amounts of cash, with 12 arrests. Given the success of this approach, we are unsure what additional benefit would be achieved by establishing a permanent full time task force, and affordability would be a concern for all agencies involved.

To further promote closer working with colleagues in Ireland, in 2014, we established the 'HMRC – Revenue Working Group on Strategies for Managing Indirect Tax Fraud Risks'. This group is designed to share best practice with the aim of making further improvements to the indirect tax strategies adopted in both the UK and Ireland.

**H. The Committee looks forward to the introduction of the marker in late 2015 and hopes it delivers its aims of seriously curbing the incidence of diesel laundering.**

The new marker was introduced from 1 April 2015 and can be tested in both laboratory and mobile analysers. Any supply of rebated fuel removed from warehouse for home use must contain the new mix of markers as set out in legislation, and the new marker represents a significant improvement on the existing mix.

We will be monitoring the impact of the new marker using data from a variety of sources and, as recently announced by the Exchequer Secretary to the Treasury, HMRC will be publishing a report on the effectiveness of the marker in October 2015.

**J. Further legislation in both jurisdictions to dis-incentivise the supply and sale of illicit commodities as well as the knowing consumption of the goods including on-the-spot fines.**

Our compliance strategy approach includes consideration of legislative options to prevent non-compliance. For example, as part of our tobacco strategy refresh we will be introducing a registration scheme with appropriate enforcement sanctions for users and dealers in raw tobacco to be introduced in 2016. See also recommendation K.

**K. Introduction of more serious penalties including more lengthy custodial sentences for illicit trade activities.**

While sentencing is a matter for the judiciary, HMRC has previously raised concerns about the lack of custodial sentences for illicit trade activities. Following a consultation exercise in 2013, the Northern Ireland Department of Justice implemented a legislative change in December 2013 allowing referral of unduly lenient excise fraud sentences to the Court of Appeal. We will continue to monitor sentencing and refer cases where appropriate.

As part of our compliance strategy, HMRC has recently consulted on the way that we currently apply penalties when people fail to meet their tax obligations. The consultation closed on 11 May 2015 and we are currently evaluating the responses.

Additionally, one of the key objectives of our tobacco anti-fraud strategy is to maximise the impact of the extensive range of sanctions currently available across enforcement agencies to tackle the illicit market and deter participation in it. HMRC is undertaking an informal consultation on further sanctions for tobacco duty fraud. This consultation closes on 28 August and invites views on, for example, where sanctions should be applied across the supply chain and on on-the-spot fines. The responses will inform whether we need to take alternative approaches and/or consider different, tougher sanctions. We will also consider the responses from this consultation in the context of other excise frauds.

**L. Legislatures in both jurisdictions re-examine company law to find a way to address the phoenixism in illegal operations**

HMRC acknowledges the threat posed by phoenix companies in respect of fuels fraud. This is a complex issue that we are considering as part of our oil anti-fraud strategy.

**M. The activities of fuel laundering plants and filling stations should be closed down despite any inherent policing difficulties. Legislation changes should be made to ensure that these outlets cannot simply re-open weeks later.**

There are no "no go" areas for HMRC. Road Fuel Testing Units work across all parts of Northern Ireland and wherever such premises are identified, they are disrupted through robust enforcement action such as seizure of illicit fuel and dismantling of plant.

**N. Efforts be made to identify gaps in enforcement where gains could be made by targeted investment and increased funding.**

We continually review our anti-fraud strategies and opportunities to exploit new technologies. In Autumn Statement 2013, HMRC received substantial additional funding to tackle oils fraud which has secured extra officers, additional vehicles and new high-technology equipment to detect the new marker. These resources have been deployed across to the UK including Northern Ireland.

A recent development is the introduction of hi-tech equipment to allow officers to test vehicles at the roadside for the presence of the new fuel marker. Previously, the test for the new marker was completed at a laboratory, leading to a delay in identifying illicit fuel and further action being taken. The new equipment will now be installed in 49 HMRC Road Fuel Testing Unit vehicles throughout the UK and used to analyse fuel samples taken at the roadside and at retail premises, starting in Northern Ireland.

More recently, at Sumer Budget 2015, the government announced measures that will increase by 50% HMRC's capacity to investigate and prosecute organised crime groups dealing in illicit tobacco. They will also expand HMRC's intelligence network, strengthening activity in high risk areas overseas, on the near continent and in the UK.

**P. LE agencies continue to improve public health information campaigns in order to highlight to the public the health, prosecution and environmental risks of supporting such illegal activity**

We will continue to work with other organisations to raise awareness of the illicit tobacco and fuel market, the damage it does to the economy and the environment, and the link with organised criminals. With illicit tobacco, it is important that we strike the right balance between protecting legitimate trade and avoiding the suggestion that the UK Government encourages or promotes the purchase of duty paid tobacco.

