



## **Proposal to Assist the Frontier Duty Free Association (FDFA) with Tobacco Issues**

### **Context**

The change of Government in October 2015 has reset the landscape on tobacco issues. Whereas the Conservatives had taken some measures to strengthen tobacco control, such as banning some flavoured tobacco products, they were a more laissez-faire Government when it came to these issues and had prioritized addressing illegal tobacco.

However, the Liberals have already given tobacco control lobbyists several wins in their first two years in power:

- Banning most menthol tobacco products, after the Conservatives had repeatedly refused to do so;
- Introducing Bill S-5, which mandates plain and standardized packaging of tobacco products;
- Increasing tobacco excise taxes in the 2017 Federal Budget; and
- Launching a comprehensive review of the Federal Tobacco Control Strategy (FTCS), including things like increasing the smoking age to 21, with a view to launching a new FTCS in 2017.

There is no doubt the tobacco control community sees an ally in the Liberal Government – and they are pushing their wish list of further radical measures. They have already succeeded in securing their dream initiative – getting plain packaging legislation introduced – and that will likely be passed by fall. As a result, they are already planning beyond that and love positioning Canada as a global first mover on tobacco control initiatives.

### **Looming Threats**

We see at least five immediate threats for the duty free industry in relation to tobacco.

First, while the tobacco control community is relentless, the Canadian advocates are following a playbook used internationally, so at least we have some sense of their next moves. Australia is the best-case study, where plain packaging was introduced in 2012. Knowing the policy's impact would be questionable at best in terms of reducing smoking rates, the tobacco control community lobbied for and secured massive excise tax increases in Australia. In other words, to show plain packaging was working, the Government simultaneously introduced massive excise increases, and by 2020 a pack of cigarettes in Australia will cost \$20.

Canadian tobacco control lobbyists are already calling for Australian-style tax increases in Canada and we expect this to be their major push in 2017-18.

*Threat #1: Massive excise tax increases.*

Second, you will recall that various tobacco control groups have been calling for changes to duty free tobacco sales during the federal pre-budget consultation for several years now. This remains a threat.

*Threat #2: Reductions in tobacco duty free limits.*

Third, the Non-Smokers Rights Association recently published a report on tobacco pricing which, amongst other things, calls for an end to duty free sales. As TSA has previously discussed with FDFA, the tobacco control community never drops a measure from its wish list – and taxation/pricing is emerging as their main focus for 2017-18.

*Threat #3: An end to duty free tobacco sales.*

Fourth, the review of the FTCS is expected to lead to a new strategy being put in place in 2018. That could also mean comprehensive changes to the *Tobacco Act*. The new strategy, which is expected to have a 10-year focus, will be a major focus for tobacco control lobbyists, who will use it to try to get their wish list of proposals in writing. They will then use the FTCS to continually pressure the current and future administrations to implement everything in the strategy. Therefore, the strategy as a whole is a threat as it will probably deal with taxation, potentially duty free and just about every other issue tobacco control lobbyists wish for.

*Threat #4: Implementation of a new FTCS.*

Finally, the Health Minister is increasingly invoking Article 5.3 of the Framework Convention on Tobacco Control (FCTC) to argue that any tobacco industry stakeholders, including retailers, should be precluded from discussions about tobacco control initiatives. With the FTCS undergoing renewal, and with tobacco control groups lobbying for an end to duty free sales, this is another threat to the business. In short, you could be cut off from advocating on an issue that represents a significant portion of duty free sales – meaning the tobacco control lobbyists could set the agenda without any business input.

*Threat #5: Restrictions on FDFA lobbying on tobacco issues, or an outright ban.*

### **Proposal**

TSA offers the following proposal to FDFA.

### **Detailed Threat Assessment**

We will provide a more detailed threat assessment on the five issues listed above, and any others that may be of concern to FDFA. Using our existing networks and current knowledge, we will offer a ranking of how serious these threats are over the short, medium and long-term.

### **Ongoing Monitoring**

TSA has an existing monitoring protocol for the tobacco control community, which is updated monthly. We track the activities of roughly 20 priority tobacco control groups and prepare a summary report. This monitoring serves as the “canary in the coal mine” for future tobacco legislation. If the tobacco control community is not talking about something, it is unlikely to make it onto the Government’s agenda. This monitoring is a critical early warning system for anyone with a stake in the tobacco industry or retailing.

TSA also has an existing Government monitoring service on tobacco issues which tracks legislative developments, budgets and taxation and regulatory consultations. That too could be made part of the package for FDFA.

### **Position Paper/Disaster Plan**

TSA will develop a position paper on tobacco to help frame the discussions suggested above, one that explains why tobacco sales are critical to FDFA members, but also focuses on the expected long-term decline in tobacco sales. The paper should also address some of the basic facts about duty free tobacco sales, such as the notion they could somehow be linked to smoking initiation.

The paper can also serve as the “disaster” plan for the industry, looking at the likely impact of the main threats identified above. Key factors to explore would include:

- The percentage of store revenue directly tied to tobacco;
- The percentage of foot traffic and non-tobacco sales tied to tobacco;
- Analysis of the price point at which consumers no longer deem duty free tobacco a worthwhile expenditure; and
- Historical information on tobacco sales (i.e. showing that the duty free industry can manage a long-term gradual decline, but not an overnight halving or worse of duty free allowances).

Building on the above, you can include specific recommendations in the paper – both defensive (e.g. no changes to duty free limits) and offensive (e.g. something like Road TRIP) to compensate for any Government action on duty free tobacco. In effect, you would turn a negative into a positive. In other words, if the Government were to completely eliminate duty free tobacco, the paper would show that the industry would be severely harmed, if not dealt a death blow, in which case remedial measures are needed.

### **Engagement Strategy**

TSA will also prepare an engagement strategy, recognizing that the tobacco control community has dozens of full-time lobbyists working exclusively on tobacco issues.

The position paper will form the basis of an engagement plan. The initial audience for this would be Members of Parliament (MPs) from FDFA member ridings and other key stakeholders (Finance, Finance Minister’s office, Finance Committee), but ultimately should include all MPs. This outreach may also include Provincial Government stakeholders and non-government stakeholders.

For duty free and taxation issues, the main focus will be the Office of the Minister of Finance and his officials. However, that engagement will need to be supplemented with direct outreach to MPs from FDFA member ridings. Depending on the results of the threat assessment above, it may even be necessary to target all MPs.

It is also worth trying to open a dialogue with the Health Minister’s Office and officials. If they are willing to engage, that alleviates threat #4 to some degree.

Likewise, if the major threats to the future of duty free sales are gaining traction, FDFA will have to consider more grassroots outreach to Municipal Governments home to member stores and potentially provincial politicians who could engage with their federal counterparts.

Ultimately FDFA needs to begin a conversation about tobacco with key Ministers and MPs about the tobacco side of the business. Our experience has found that most MPs are not as militant on tobacco as the tobacco control community and are open to an informed conversation about tobacco issues.

### **Key Messages**

FDFA should not hide from the fact that tobacco is its second largest seller. Tobacco is still a legal product and as long as that is the case, FDFA should pursue the right to sell tobacco products within an already heavily regulated environment. Moreover, Governments need to be reminded that the primary competition for duty free tobacco sales is contraband from First Nations and lost sales to the United States, neither of which generate any tax revenue for Canada.

Messaging should make clear that the duty free industry recognizes tobacco sales are on a downward trajectory over the long-term, and that FDFA is not seeking to reverse that trend, but rather to allow the industry to naturally transition to this reality over the long-term without any market shocks (e.g. unexpected excise tax increases, cuts to duty free allowances, etc.).

The key messages would be built around the findings of the position paper.

### **Timeline**

TSA believes the threat assessment and position paper work could be completed over the summer. Key messages and identification of priority engagement targets can also be developed before Parliament resumes sitting in mid-September. Some preliminary engagement could take place over the summer as well, such as outreach to MPs in FDFA ridings.

### **Budget**

We recommend an initial budget of \$10-12,000 over the June to September period to conduct the work detailed above. By September you should have a good indication of whether a more concerted outreach campaign is needed based on the threat assessment and the potential business impact.

### **About Temple Scott Associates**

Temple Scott Associates (TSA) is an independently owned public affairs company with offices in Ottawa and Toronto. We provide an integrated suite of services to connect our clients to Governments in all jurisdictions. This knowledge and experience empowers our clients to leverage the policy process to their tactical and strategic advantage.

TSA has almost a decade of experience working on tobacco issues and has worked with FDFA in the past. We look forward to the opportunity to do so again.