

Smoking Gun: Exposing the Widespread Sale of Illicit Cigarette Brands in Mainstream Outlets

EXECUTIVE SUMMARY

Tax Justice South Africa conducted this research to document on film, and establish beyond debate, the degree to which the sale of illicit branded cigarettes – a trade that costs South Africans billions of rand a year in unpaid tax – is now open and endemic nationwide in the wake of the Covid-19 lockdown. Our undercover team visited 43 mainstream retail and wholesale outlets across Cape Town, Johannesburg, Pretoria and Durban to secretly film cigarettes being sold at a price actually **below** the minimum tax that must be paid on them by law.

TJSA considers all cigarettes sold at R25.00 a pack or below to be illicit, since such a price cannot possibly cover the cost of manufacture and distribution on top of the Minimum Collectible Tax (MCT) of R20.01 due on each pack (R17.40 excise plus R2.61 VAT). However, for the avoidance of doubt, a far lower threshold of R20.00 – below the actual MCT – was adopted for this study. These cigarettes are in our analysis illicit as they are being sold below the legal threshold.

Our researcher was able to simply walk in off the street as an unknown customer and purchase cigarettes at R20.00 or below in 42 of the 43 outlets visited over the course of six days across all four cities, recording every buy on video. Each buy is listed in Appendix A. A TJSA documentary on the investigation contains selected footage and can be viewed [here](#). Some cartons were being sold at barely a third of the price necessary to cover tax alone. Two retailers openly sold our researcher illegal cigarettes with nicotine levels above South Africa's legal 1.2mg limit, with one filmed explaining that they had been smuggled from Mozambique and no tax had been paid.

Our extensive footage shows indisputably and beyond all doubt that the supply and sale of illicit brands below the minimum tax threshold is now rife throughout the country in mainstream outlets, and post-lockdown has become utterly brazen. Indeed, it appears that sellers are so unworried by any threat of action by the police or South African Revenue Service (SARS) that many now openly display them alongside legal brands in their stores and wholesale displays. Some were recorded on film laughing at the suggestion that they might be caught or face sanction for selling illicit cigarettes, and showing unconcealed contempt for the police and SARS. When asked if he was worried about the authorities, one even scoffed: *"Don't worry about them. F*** the police."*

Furthermore, our research shows that these illicit brands being sold at a price below the tax that should have been paid on them can be traced to a small number of manufacturers. Between them, Gold Leaf Tobacco Corporation (GLTC) and members of the Fair-Trade Independent Tobacco Association (FITA) accounted for the vast majority of the brands being sold to our researchers and thus supplied to the market at below MCT.

These manufacturers had already been singled out by the Research Unit on the Economics of Excisable Products (REEP) at University of Cape Town for exploiting the lockdown black market to increase market share.¹ With supply of mainstream multinational company (MNC) brands inevitably limited, prices were inflated to meet demand from customers who had never previously bought illicit cigarettes. Revenues and market share for illicit brands soared. And in its latest report published in December, REEP confirms that FITA members have indeed managed to convert their dominance during the ban into a greater share of the post-lockdown market.²

The law is being broken in plain sight across South Africa, and now that TJSA has documented it clearly on film it can no longer be denied by politicians or law enforcement. Corruption and the apparent failure by manufacturers of illicit brands to pay all due tax and excise on all of their cigarettes is robbing the government and South Africa's citizens of billions of rand a year. It is money that is badly needed to fund the country's future – our infrastructure, health and the education of our children.

Illicit cigarette manufacturers are in our view stealing the country's money and future by dodging their tax responsibilities and SARS is failing to act to prevent the manufacture, supply and open sale of these brands on our streets. The manufacturers of illicit cigarette brands have been proven by this research to be breaking the law with impunity. The problem can no longer be denied by anyone. It is staring us in the face – and thanks to this study it is now on video for all to see.

The time to stamp out the manufacture, supply and sale of illicit cigarettes is now. Every day we delay robs the country of millions of rand that should be helping our country to prosper – not enriching the manufacturers of the illicit brands who we believe are living like kings at our expense.

BACKGROUND

Excise on cigarettes – currently R17.40 per pack of 20 – is payable by the manufacturer as soon as the cigarettes leave the factory gates. Therefore, if excise has been paid and the cigarettes are legal, this cost should be “baked in” all the way along the chain as the cigarettes are sold to wholesalers, retailers and finally consumers. Every pack of cigarettes leaving the factory gates should be costing wholesalers at least R17.40 plus the cost of raw material, production and profit margin. 15% VAT is then also payable. If a product is bought by a customer at R20, VAT is R2.61 on top of the R17.40 excise. Thus, a minimum retail price of R20.01 per pack is needed just to cover tax payments alone. Anything below this is financially unsustainable unless tax has not been paid.

In August, Tax Justice SA argued that any cigarettes sold under R25 should be considered illegal, since the excise (R17.40) and VAT (R3.26) leave an untenable margin of just R4.43 to cover the cost of production, distribution and profit for manufacturer, wholesaler and retailer.³ In reality, a sustainable retail price where all due tax and excise has been paid is even higher.

In 2018, it was estimated that the National Treasury was losing over R7bn every year in uncollected excise tax revenue due to the illicit cigarette market.⁴

On 27 March 2020, the South African Government introduced a ban on all cigarette sales in an attempt to control the spread of Covid-19. All cigarettes became illicit. However, a study by the Research Unit on the Economics of Excisable Products (REEP) at University of Cape Town (UCT) four months later, at the height of the ban, found that 93 per cent of smokers were able to buy on the black market,⁵ thereby normalising the purchase of illicit cigarettes in mainstream society.

Another consequence of the ban was to drive consumers from legal brands manufactured by multinationals towards brands that already had production and distribution networks capable of evading tax and excise.⁶ A REEP study in July showed that market share by multinational tobacco companies (British American Tobacco, Philip Morris International, Japan Tobacco International and Imperial Tobacco) had collapsed from 74% to just 17%.⁷

With legal brands largely unavailable, the market was flooded with illegal alternatives. Brands distributed by manufacturers such as Gold Leaf Tobacco Corporation (GLTC) and Carnilinx were widely available, and these producers appear to have used the ban to seize market share. Based on REEP

research, the cigarette producers with the largest market share in June 2020 during the ban were GLTC (26%), Carnilinx (14%), Best Tobacco Company (11%) and Amalgamated Tobacco Manufacturers (ATM) (10%). As REEP concluded: *“Our results show that the market for cigarettes, which had previously been dominated by multinationals (MNCs), has now been captured by local companies and, to a lesser extent, by imported cigarettes.”*⁸ Ominously, for the first time ever the largest seller of tobacco products in South Africa was a company we regard as an illicit seller (i.e. a producer who sells at less than the legal threshold as explained above) – Gold Leaf Tobacco Corporation.⁹ The top three were all members of the trade body set up by local illicit brands to represent them, the Fair-Trade Independent Tobacco Association (FITA).

As the REEP study noted: *“The fact that the Fair-Trade Independent Tobacco Association initiated a court case to have the sales ban lifted is ironic, because their members have benefitted disproportionately from the sales ban. They have greatly increased their share of the market within our sample, and sold their cigarettes at hugely inflated prices.”*¹⁰

When the ban was lifted on 18 August 2020 after 144 days, the effect of lockdown on the smoking landscape became clearer. Forcing smokers to buy illegally during the ban had normalised the act of selling and buying illicit brands for both retailers and consumers. With illicit brands slashing their prices again – in many cases back below the MCT level – many smokers who switched from legal to illicit (tax-evading) brands stayed with them.

A later post-ban December study by REEP concluded: *“The fact that so many people were able to purchase cigarettes, despite the ban, suggests that the illicit market, which was already well established before the lockdown, became even more entrenched.”*¹¹ It found that BAT (-14.4%), JTI (-9.9%) and Philip Morris (-14%) had all lost market share post-lockdown. By contrast, manufacturers whom we define as illicit – GLTC (+10.8%), Carnilinx (+3.8%), Best Tobacco (+88.6%), Pacific (+86.1%), Amalgamated Tobacco (+29.1%) and Afroberg (+406.1%) – had all gained and kept market share. It can be no coincidence that these brands are all considered illicit, with packs widely available during the ban and sold below the MCT level once it was over.¹²

Yet despite these reports, FITA and GLTC continue to insist they pay all excise due and deny that their brands are widely sold below Minimum Collectible Tax.

PRIMARY RESEARCH

Our team visited 43 outlets over six days between 27 November and 2 December 2020. These were chosen to cover a wide geographical area and range of mainstream outlets, from corner shops and superstores to wholesalers and cash & carries.

One researcher entered each outlet to make test buys at R20.00 or below. As part of this qualitative study, the undercover researcher also attempted to engage the seller in conversation to get context and background, and to determine their attitude towards selling illicit cigarettes and the extent to which they considered themselves at risk of being caught or punished for selling them. Some test purchases were also made of established legal brands to check whether prices were above MCT.

All interaction from the moment the researcher entered the store until the moment he left was recorded covertly on a camera worn upon his body. This footage was then downloaded, and the buys from each attempt logged.

RESULTS

Our research team visited 21 outlets in Cape Town at different times of the day on 27-28 November 2020. The same process was conducted at ten outlets in Durban on 29-30 November 2020 and 12 outlets across Johannesburg, Soweto and Pretoria on 1-2 December 2020. The full list of addresses visited, together with the test purchases made and the price charged, is listed in Appendix A.

Due to the unique situation in each outlet, the path of the interaction between our researcher and the seller, and the degree and nature of the conversation varied. Several test purchases of established legal international brands were made for comparison, and to check their prices were above MCT. However, since the principal purpose was to test the availability of brands being sold below a level where all taxes could be paid, the researcher predominantly concentrated his requests on packs available for R20 or less, or cartons of ten packs available for R200 or less.

- **In Cape Town**, 20 of the 21 outlets visited sold our test buyer cigarettes for R20.00 or under, or the carton equivalent. The cheapest individual pack was R10.00 (Sahawi and Cape) and the cheapest carton was R93 (Remington Gold).
- **In Durban**, all ten of the outlets visited sold our test buyer cigarettes for R20.00 or under. The cheapest pack was R10.00 (Sahawi, Ossum, Rainbow, Pacific Blue, Ms) and the cheapest carton was R80 (Rainbow).
- **In Johannesburg**, Soweto and Pretoria all 12 of the outlets visited sold our test buyer cigarettes for R20.00 or under. The cheapest pack was R10 for Sahawi and the cheapest carton was R72 (Red & Black).

In total, our test buyer bought 34 different brands for R20.00 or under – all on film. We were offered the same familiar illicit brands time and again in different outlets and different cities. Of the 34 brands sold to us for less than MCT, Gold Leaf Tobacco Corporation (8), Carnilinx (6), Best Tobacco (4), Afroberg (4), Amalgamated Tobacco Manufacturers (4) and the Zimbabwean brand Pacific (4) account for 30. Between them, GLTC and members of Fair-Trade Independent Tobacco Association accounted for two thirds (23).

By contrast, in every case where we test-bought packs of established legal brands to check the price, it was considerably above MCT (Pall Mall R32, Peter Stuyvesant R45, Winston R32). Significantly, in each case, this was at a store which also sold us illicit brands at below MCT in the same transaction, suggesting that the vast difference in price between legal and illicit brands is not down to any action by the retailer but occurs higher up the distribution chain.

The full video of each ‘buy’ recorded for this report was included in a confidential report that has been submitted to SARS and the Government Ministries of Health, Police and Trade.

A list of each brand successfully purchased at R20.00 or below, together with the lowest price paid for a packet and a carton, and the manufacturer of each brand is attached as Appendix B. However, the common theme is that these brands offered to our researcher at a price indicating to us that tax cannot have been paid were all owned by a small number of manufacturers.

The principal manufacturers whose brands were offered to our researcher at below the Minimum Collectible Tax were all members of the Fair-Trade Independent Tobacco Association (FITA).

CONCLUSION

There can no longer be any dispute about whether the open sale of illicit brands in mainstream outlets is widespread. This study shows that it is endemic across the country. Manufacturers are able to distribute illicit product nationwide for open sale without the companies or the criminal operators that run them facing sanction. Furthermore, our recordings show that consumer-facing sellers now operate with impunity. They feel no threat from the police or SARS for stocking and selling illicit brands, even when it is self-evident that tax cannot have been paid because the retail price is just a fraction of what the tax alone should have been.

Our research showed brands being sold as cheaply as R7.20 a packet. We were often offered (on video) a further discount if we bought bulk quantities of cartons, suggesting the price being paid further up the distribution chain is even lower. Such figures are way below what can be plausibly explained away. To pay excise of R17.40 + 15% VAT, and then sell the product at a fraction of that price, is not a remotely credible business model. No business can survive, let alone prosper, by consistently paying more in tax on their product than they sell it for. This is without allowing for the cost of raw materials, production, distribution and packaging.

We are of the view that the only credible explanation for the prices that our research team recorded on camera around the country can be the widespread criminal evasion of tax and excise payments by the manufacturers of the brands involved, and the failure of SARS and the police to enforce the law and bring to justice those conducting this racket in plain sight.

RECOMMENDATIONS

In light of what appears to be a blatant and undeniable avoidance of tax and excise payment by the manufacturers of illicit brands proven in this report, Tax Justice SA calls for:

- The arrest and prosecution of those running these organisations who are in our view stealing from the public purse by evading tax and excise, and currently believe they are above the law.
- Seizure of their assets – bought with the billions looted from the South African people in tax evasion – and the return of that money to its rightful owners – the State and its people.
- Immediate closure by SARS of any tobacco manufacturing plant producing brands of cigarettes being sold beneath the MCT.
- A minimum price for tobacco products at retail and wholesale level of 30% above MCT, below which they are automatically recognised as illegal and instantly seized.
- An education programme for retailers, paid for from tobacco excise, to help them identify which brands are illicit and cannot be sold.

FOOTNOTES

- 1: van Walbeek, C., Filby, S. and van der Zee, K. (July 2020), Smoking and Quitting Behaviour in Lockdown South Africa: Results from a Second Survey, p3.
- 2: van Walbeek, C., Filby, S. and van der Zee, K. (December 2020), Back To Normal? Smoking and Quitting Behaviour in South Africa After The Tobacco Sales Ban: Results from a Third Survey, p20.
- 3: Tax Justice South Africa (August 2020), Ban is over but war on tobacco criminals is only beginning, says TJSA.
- 4: Ipsos (July 2018), The 2018 National Tobacco Market Study, p19.
- 5: Smoking and Quitting Behaviour in Lockdown South Africa: Results from a Second Survey, p3.
- 6: Smoking and Quitting Behaviour in South Africa After The Tobacco Sales Ban: Results from a Third Survey, p19.
- 7: Smoking and Quitting Behaviour in South Africa After The Tobacco Sales Ban: Results from a Third Survey, p2.
- 8: Research Unit on the Economics of Excisable Products (July 2020), Press Release accompanying Smoking and Quitting Behaviour in Lockdown South Africa: Results from a Second Survey.
- 9: Smoking and Quitting Behaviour in Lockdown South Africa: Results from a Second Survey, p25.
- 10: Smoking and Quitting Behaviour in Lockdown South Africa: Results from a Second Survey, p3.
- 11: Smoking and Quitting Behaviour in South Africa After The Tobacco Sales Ban: Results from a Third Survey, p4.
- 12: Smoking and Quitting Behaviour in South Africa After The Tobacco Sales Ban: Results from a Third Survey, p13.

APPENDIX A

A full list of the purchases were made over the course of the research conducted for this report.



CAPE TOWN - 27 November 2020

- Peacock: Pall Mall R32, Supermatch R15, Richman R18
- Lingkons: Winston Red R32, Cape R15, Kyro R15, Stix R15
- CT Supermarket: Peter Stuyvesant R45, Chicago R25, Golden Bind R18, Caesar Menthol R22, Red & Black R18
- Bellville Supermarket: JFK R20, Red & Black R15
- Alpha & Omega: Mega R20, Pacific Storm R15, Chicago R25
- Mo's Fruit & Veg Cigarette Wholesalers: Cape R10, Remington Gold R10, Caesar Gold R17, JFK R17
- Amzad Cash & Carry: Chicago R20, Cape R15
- Jama Wholesale: Buy 1 - Chicago R19, Caesar Gold R17
- Jama Wholesale: Buy 2 - 10 x Chicago R182
- Avalon Cash & Carry: 10 x Remington Gold R93, 10 x Caesar Gold R160
- Pick n Pay, Constantia: Platinum Blue R19.99, Atlantic Blue R24.50 (Atlantic Green photographed on sale at 19.99)

CAPE TOWN - 28 November 2020

- Sidco trading as Dafodil Trading: 10 x Richman R155, Chicago R20, Caesar Gold R17
- Bull Cash & Carry: 10 x Chicago R182
- Kenny's Mini Market: 10 x Ms R70, Sahawi Menthol R10
- Salahudin Cash & Carry: 10 x Remington Gold R90, 10 x Bastille R110
- Marez Superette: Cape R15, VIP R20, Remington Gold R15
- Oakglen Supermarket: 10 x Supermatch R140
- ABC Supreme Cash & Carry: 10 x Caesar iPop R170
- Community Supermarket and Wholesaler, Steenberg: Remington Gold R15
- Bandeker: Richman R20
- Salman Superette: Supermatch R17

DURBAN - 29 November 2020

- Street Buy, Phoenix: Ds R15, RG Grape Mint R20
- Smoker’s Corner: Buy One - 10 x CK R200, Pacific Blue 1.4 R15
- Smoker’s Corner: Buy Two - 10 x Pacific Blue 1.4 R230
- Chicken Ranch: 2 x Ms R10 each, Ossum R10, 10 x Rainbow R80
- Africa Supermarket: 10 x MC Blue R100, Pacific Blue R10
- Central Wholesalers: 10 x Caesar Gold R160

DURBAN - 30 November 2020

- Advance Cash & Carry: 10 x Red & Black R72
- Boss Cell & Sound: 10 x Sharp R200, 10 x Remington Gold R100
- Jabula Supermarket: 10 x Sharp R200
- Just Save Supermarket: 10 x Remington Gold R105, Sharp R20, RG R20
- Smash Café: 10 x Red & Black R80, 10 x Remington Gold R105
- Panna General Trading: 10 x Rainbow R75

JOHANNESBURG, SOWETO & PRETORIA - 1 December 2020

- Advance Cash & Carry: 10 x Red & Black R72
- Boss Cell & Sound: 10 x Sharp R200, 10 x Remington Gold R100
- Jabula Supermarket: 10 x Sharp R200
- Just Save Supermarket: 10 x Remington Gold R105, Sharp R20, RG R20
- Smash Café: 10 x Red & Black R80, 10 x Remington Gold R105
- Panna General Trading: 10 x Rainbow R75

JOHANNESBURG, SOWETO & PRETORIA - 2 December 2020

- Fixed Price Wholesalers, Springs: 10 x Sharp R190, 10 x Remington Gold R95
- Station Meat Co, Springs: Remington Gold R15
- Nayeem and Nassir Wholesaler: 10 x Sharp R190, 10 x RG Blue R190
- Kiptown Sweet & Snacks: Savannah R19, Sharp R19, Sahawi Original R10, RG Blue R19
- Badats Wholesaler: 10 x Sahawi Original R100, 10 x RG Menthol R192, 10 x Savannah R192
- Kiptown Cash & Carry: 10 x Savannah R140, Sharp R19.99, RG Menthol R19.99



Watch the TJSA documentary on the investigation on our [YouTube channel](#)

APPENDIX B

- Bastille: - R110 **CARNILINX**
- Caesar Gold: R17/R160 **BEST TOBACCO**
- Caesar Blue: R165 **BEST TOBACCO**
- Caesar iPop: R170 **BEST TOBACCO**
- Caesar Menthol: R22 **BEST TOBACCO**
- Cape: R10 **AFROBERG**
- Chicago: R19 **GLTC**
- CK Gold: R200 **AMALGAMATED (ATM)**
- CK Platinum Blue: R19.99/R125 **AMALGAMATED (ATM)**
- Ds: R15 **AMALGAMATED (ATM)**
- Golden Bind: R18 **UNKNOWN – POSSIBLY CHINESE FROM ZAMBIA**
- JFK: R17 **CARNILINX**
- Kyro: R15 **PROTOBAC**
- Mega: R20 **CARNILINX**
- Ms: R70 **AMALGAMATED (ATM)**
- MC Blue R10/R100: **DE ROBILLARD KAJEEE**
- Ossum: R10 - **AFROBERG**
- Pacific Blue 1.2: R10 - **PACIFIC (ZIM)**
- Pacific Blue 1.4: R15/R200 **PACIFIC (ZIM)**
- Pacific Storm: R15 **PACIFIC (ZIM)**
- Rainbow: R10/R75 **AFROBERG**
- Red & Black: R15/R72 **AFROBERG**
- Remington Gold: R10/R93 **PACIFIC TOBACCO (ZIM) – OPEN HORIZON LLC**
- Richman: R18/R155 **CARNILINX**
- RG Menthol: R19.99/R192 **GLTC**
- RG Blue: R19 /R190 **GLTC**
- RG Grape Mint: R20 **GLTC**
- Sahawi Original: R10/R100 **GLTC**
- Sahawi Menthol: R10 **GLTC**
- Savannah 19R/R140 **GLTC**
- Sharp: R19/R190 **GLTC**
- Stix: 15R **CARNILINX**
- Supermatch: R15/R140 **MASTERMIND TOBACCO (KENYA)**
- VIP: R20 **CARNILINX**



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ABOUT TAX JUSTICE SOUTH AFRICA

Tax Justice SA (TJSA) is rallying South Africans and the Government to take action against organised criminal gangs that are plundering our nation of R100 million every day via illicit trade.

Founded by Yusuf Abramjee, TJSA is working to raise awareness of this national menace and show how these stolen funds could be used to build a better nation.

The campaign is supported by Makali Lepholisa, former Commissioner for Customs in Lesotho, and Andy Mashaile, Interpol Turn Back Crime Ambassador, who join Yusuf as the Directors of TJSA.

#LockThemUp

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