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Cigarette-like cigarillo introduced to bypass taxation, standardised packaging, minimum pack sizes, and menthol ban in the UK

J Robert Branston ^{1,2}, Rosemary Hiscock ², Karin Silver,² Deborah Arnott,³ Anna B Gilmore ²

¹School of Management, University of Bath, Bath, UK

²Tobacco Control Research Group, Department for Health, University of Bath, Bath, UK

³Action on Smoking and Health (ASH), London, UK

Correspondence to

Dr J Robert Branston, School of Management, University of Bath, Bath BA2 7AY, UK; J.R.Branston@bath.ac.uk

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The UK has stringent tobacco control legislation, which has been extended most recently to include standardised packaging with minimum pack sizes,¹ and from 20 May 2020, a ban on menthol.^{2,3} However, this legislation applies only to cigarettes and roll-your-own (RYO) tobacco.

In January 2020, Japan Tobacco International (JTI) launched a new product onto the market that bypasses these laws. *Sterling Dual Capsule Leaf Wrapped* (figure 1) are officially being sold as cigarillos,⁴ which are defined by law as a cigar (a roll of tobacco with an outer wrapper of tobacco) with a maximum weight of 3 g.^{5,6} These new ‘cigarillos’ are clearly aimed at cigarette smokers, and closely resemble cigarettes. The outer leaf wrapping, required for a cigarillo classification, covers a cigarette-like paper tube that contains the tobacco and appears to provide the main structure (figure 2). This is not prohibited by the cigar/cigarillo definition but does highlight its cigarette-like nature.^{5,6} Indeed, the cigarillo sticks are of a similar size to a cigarette, use Virginia blend tobacco⁷ like cigarettes, and contain a filter and crushball menthol flavour capsule—features that are highly unusual in cigarillos but common in cigarettes. Furthermore, the brand name almost exactly mirrors the *Sterling Dual Capsule* cigarette that was recently banned (figure 1). As of April 2019, Sterling is the second most popular cigarette brand in the UK according to Nielsen, and the *Sterling Dual Capsule* cigarette variant launched in 2018 rapidly became the fastest growing capsule product.⁸ In the launch press release, JTI linked the cigarillo to cigarettes and clearly aimed to capitalise on Sterling’s popularity. Indeed, it implied that it is an unconventional type of leaf-wrapped cigarette.⁷ At least one outlet included this new cigarillo in the tobacco price list alongside cigarettes and RYO, presumably to catch the eye of traditional cigarette smokers (figure 3).

Industry attempts to bypass product restrictions and to use cigarillos in this manner are not new, with cigarette-like cigars having been previously identified in the USA.^{9–11} The industry has a strong set of incentives to introduce such products in the UK given cigarette sales have been declining for several years,¹² and because cigarillos are exempt from much of the regulations that apply to cigarettes. Although cigarillos have to carry large pictorial health warnings, they can still be sold in colourful branded packaging, in 10-stick packs,

can feature price markings (signalling value/limiting the pricing of retailers), and include characterising flavours (like menthol). Cigarettes must be sold in standardised olive-coloured packets of at least 20 sticks featuring the brand only in a standard font, and without any price markings or flavours.^{1,2} Moreover, a smaller pack size than cigarettes and RYO, and a smaller stick size than cigars (as cigars/cigarillos are taxed by weight) results in a relatively low level of tobacco tax.¹³ The resulting low pack purchase price enhances its consumer appeal, especially for socioeconomically disadvantaged smokers.

In early March 2020, we purchased the pictured 10-stick pack for £4.60 at a UK supermarket, when a wholesaler suggested a recommended retail price (RRP) of £4.50, less than half the price of a 20-stick packet of *Sterling Dual Capsule* cigarettes (RRP £9.80, and purchased for £10.95 in a convenience store). By early May 2020, wholesalers had introduced versions of the cigarillos with and without price marked packaging, although the RRP was unaffected by the 11 March 2020 increase in UK tobacco duties.¹³ It was notable however, that the RRP for *Sterling Dual Capsule* cigarettes increased to £10.10, even though they were shortly going to be outlawed by the menthol ban later that month.

In markets like the UK where consumer tobacco marketing is banned, the industry relies on retailers to promote its products. To encourage retailers to stock these cigarillos, they are offered a wholesale price/RRP that allow retailers a higher profit margin of 15%, compared to 5.5% for the *Sterling Dual Capsule* cigarettes. Since point of sale displays are banned (ie, tobacco products are hidden from shoppers), retailers are often asked ‘what is your cheapest’¹⁴ and a packet of these cigarillos is now much cheaper than any of cigarettes (or RYO).

To address the introduction of this product, the UK should consider a variety of measures, including some that can be implemented immediately and others that would take longer to employ. Taxation offers the most immediate way forward; amending UK tobacco regulation is the ideal solution but will take significantly longer to change than the taxation and would require public consultation, such as when standardised packaging was introduced.¹⁵ However, tobacco duty can be changed relatively quickly and therefore



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Figure 1 The cigarillo (left) and cigarette (right) versions of Sterling Dual Capsule as photographed by the authors.

offers the most immediate way to reduce the incentives behind such products until tobacco control legislation can be revised. Taxation in the UK is due to be reviewed in the annual Budget in the autumn of 2020, and duty changes usually apply from 6 pm that day.

In the UK cigars, including cigarillos, face tobacco duty (as of 11 March 2020) of £296.04 per kg of the whole product⁵ compared with £237.34 per 1000 sticks plus 16.5% of the RRP with a Minimum Excise Tax (MET) of £305.23 per 1000 sticks for cigarettes. Using precision scales, we weighed four cigarillos and the components of one we dissected (table 1) to gain an outline understanding of the duty to be paid on each stick. Resource limitations meant we were unable to weigh more sticks in line with best practice laboratory methods.¹⁶

The mean weight of the four sticks, 0.7442g, implies that each kg would consist of 1344 sticks, and hence each 10-stick pack faces a cigar duty of £2.20. This is considerably below the MET applied to cigarettes, which equates to £3.05 per 10 sticks. The MET has been found to have been effective in raising the price of the cheapest factory-made cigarettes,¹⁷ so this could be extended to cover cigarillos (table 2). Assuming industry revenue does not change, this considerably reduces

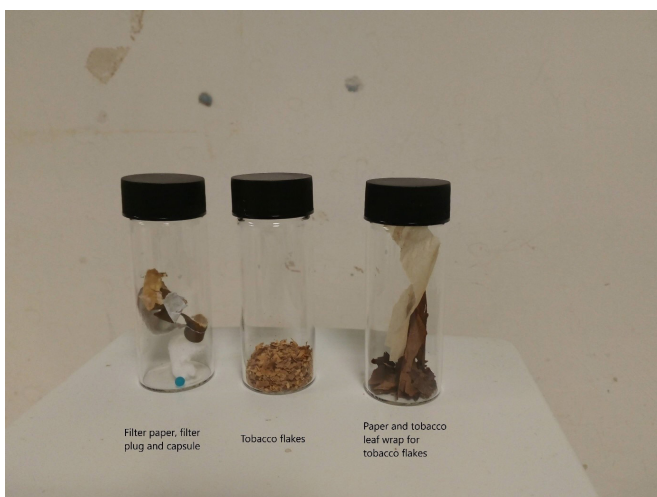


Figure 2 The dissected elements of a Sterling Dual Capsule cigarillo as photographed by the authors.

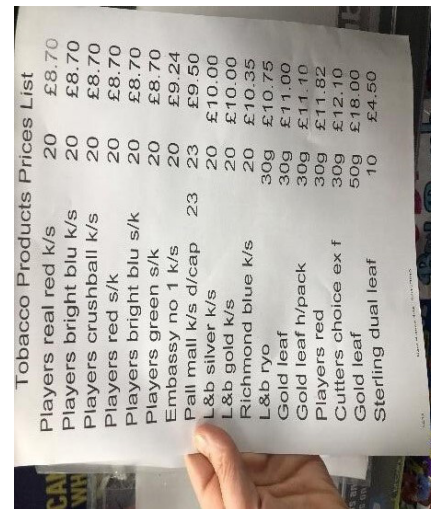


Figure 3 A retail tobacco price list as photographed by the authors.

the difference in pack price relative to cigarettes. On a per stick basis, cigarillos would now be slightly more expensive (£0.56, previously £0.46) than the cigarette equivalent (£0.55).

Such a price increase would also be possible with an almost 39% increase in cigar duty, but that would be a huge one-off increase of unprecedented size. Furthermore, it would have the biggest impact on the largest cigars and would not entirely remove the incentive to produce small cigarette-like cigarillos that are taxed only by their weight.

Another option would be a new per stick MET for cigarillos/cigars at a higher level than the MET for cigarettes. This would likely require a tax policy consultation so would take some time, but could have a bigger impact on the tax due (and hence price of) the cheapest cigarillos. For instance, a MET such that cigarillos face at least the tax due on a 1.5 g stick (half the weight of the maximum weight of a government-defined cigarillo) would imply 666.6667 sticks per kg and a minimum tax per stick of 0.4578 p and hence a higher selling price (table 2). There are a variety of low priced packs of cigarillos currently available at supermarkets (figure 4) and they have been marketed to retailers as a cheap option in the trade press.¹⁸

Longer-term possibilities include extending all of the regulations that apply to cigarettes and RYO to cover cigarillos, cigars and pipe tobacco. If the flavour ban was extended to cigarillos, then products like the new menthol *Sterling Dual*

Table 1 Weight of dissected cigarillos (in grams)

	Cigarillo A	Cigarillo B	Cigarillo C	Cigarillo D
One cigarillo	0.72	0.73	0.76	0.77
	% total			
Tobacco flakes	0.49	60%		
Leaf wrap	0.10	12%		
Paper tobacco flakes wrap	0.02	3%		
Total filter	0.20	25%		
Filter paper	0.08	10%		
Capsule	0.02	3%		
Filter plug	0.10	12%		
Total tobacco	0.58			
Total sum of parts	0.81			

NB, dissected weight and overall weight do not sum exactly due to rounding.

Table 2 The price breakdown for different tax treatments

	Current position	If current MET of cigarettes applied	If new MET of a 1.5 g cigarillo applied
Retail price (10-stick pack)*	£4.60	£5.62	£7.45
VAT (20% sales tax)	£0.77	£0.94	£1.24
Tobacco duty	£2.20	£3.05	£4.58
Industry revenue	£1.63	£1.63	£1.63

*We purchased a pack for £4.60 although the wholesale information suggests an RRP of £4.50.
MET, Minimum Excise Tax.

Cigarillos could not be sold. Extending standardised packaging might dissuade smokers from switching to more colourfully branded cigarillo products. Addressing smaller pack sizes is more problematic as cigars are generally heavier per stick and smoked in lower numbers, so are traditionally sold in smaller packs/single sticks. Pack limitations may, therefore, have to be on the basis of the weight of pack contents, which is the case for RYO pouches. A more comprehensive approach might be to create cigarillos as a new category of tobacco product separate from cigars, and then make them subject to cigarette restrictions. More simply, cigarillos could be reclassified as cigarettes as the Food and Drug Administration started to explore (but has not as yet implemented) in the USA.¹⁰ This could be done by, for instance, identifying cigarettes as any product with cigarette-type characteristics such as filters, and by generally having tight, comprehensive, and consistent legal definitions for all tobacco products so there is no chance for the industry to capitalise on loopholes. However, any of these changes will require changes to UK laws, and this will take time, especially if they relate to the European Union (EU) Tobacco Products Directive (TPD) rules that have been transposed into UK law and are unlikely to be revised before the required review date

set out in the regulations of May 2021. Furthermore, COVID-19-related matters and other priorities might mean limited legislative time is focused elsewhere.

The launch of this new menthol capsule cigarette-like cigarillo product with the same brand name as a popular cigarette provides further evidence that the tobacco industry is adept at locating loopholes to bypass restrictions/undermine regulation. EU countries currently implementing the menthol ban under the EU TPD should be alert to the launch of similar products and all those countries considering the introduction of similar tobacco regulations, including packaging restrictions, flavour bans, and product taxation, need to make sure they cover all tobacco products to avoid similar problems. Indeed, all countries should regularly review their legal definitions of tobacco products, and where necessary fix them, so that the industry cannot use outdated definitions to evade much-needed tobacco control measures. Ultimately all combustible products are associated with similar levels of harm so should be regulated and taxed in the same way to deter their use.¹⁹

Twitter J Robert Branston @JRbranston and Anna B Gilmore @BathTR

Contributors ABG, RH, KS, and JRB: conceived the original idea for the paper. All authors contributed to drafting and editing of the paper, developed ideas for policy responses, and approved the final version. ABG: spotted the cigarillos on sale. RH and KS: obtained background relevant evidence on industry behaviour via the retail press, UK government documents, and wider internet. RH: weighed cigarillos and components. DA: confirmed the tax and regulatory status of cigarillos. JRB: wrote the first draft of the paper and performed the tax analysis.

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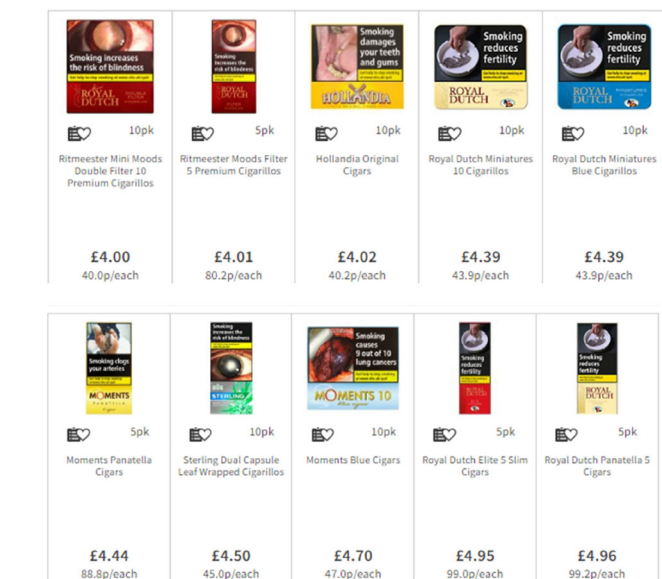
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ORCID iDs

J Robert Branston <http://orcid.org/0000-0002-2332-2403>
Rosemary Hiscock <http://orcid.org/0000-0001-9741-9083>
Anna B Gilmore <http://orcid.org/0000-0003-0281-1248>

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Figure 4 Cheapest cigars and cigarillos available at a major supermarket online (10 February 2020).

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