



## RELEASE

### **BRITISH AMERICAN TOBACCO NIGERIA LIMITED AND AFFILIATED COMPANIES: INVESTIGATION INTO POSSIBLE VIOLATIONS OF THE FEDERAL COMPETITION AND CONSUMER PROTECTION ACT, 2018 AND OTHER RELEVANT TOBACCO CONTROL LAWS/SUNDRY REGULATIONS AND DIRECTIVES**

*Pursuant to Sections 17 (a), (e), (g), (h), (l), (t), (x), (y); 27, 28, 33, 108, 110, 123, 124, 131 (and others) of the Federal Competition and Consumer Protection Act, 2018*

**Wednesday, December 27, 2023:** During the year ending 2023, The Federal Competition & Consumer Protection Commission (Commission) came to a final resolution with British American Tobacco (Nigeria) Limited (BATN, British American Tobacco Marketing (Nigeria) Limited (BATMN), British American Tobacco Plc, British American Tobacco (Holdings) Limited (All together referred to as BAT Parties) with respect to a range of infringements of the Federal Competition and Consumer Protection Act, National Tobacco Control Act and sundry legal instruments.

The Commission on August 28, 2020, opened an active investigation with respect to British American Tobacco Nigeria Limited and other affiliated companies (BAT Parties). The commencement of the investigation was based on the Commission's satisfaction that a series of credible pieces of information and intelligence were actionable enough for broader and deeper inquiry with respect to certain conduct, for, by and on behalf of BAT Parties.

Upon satisfying the Federal High Court that there was probable cause and sufficient evidence to exercise advanced statutory regulatory/investigatory tools, the court issued an Order and Warrant of Search and Seizure. In furtherance, and pursuant to the Order and Warrant, the Commission on January 25, 2021 executed simultaneous and contemporaneous searches and seizures at multiple BAT Parties locations and a location of a service provider.

The Commission gathered, received and procured substantial evidence from forensic analysis of electronic communications and other information/data

obtained during the search, as well as other evidence procured during, and after the search from other legitimate sources.

Additional investigation, including proffers, hearings, transcripts of sworn testimonies, and continuing analysis of evidence established and supported multiple violations of the FCCPA and other enactments.

During the investigation and in furtherance of mutual engagements between the Commission and BAT Parties, BAT Parties in writing sought, and the Commission accepted BAT Parties into cooperation under the Commission's Cooperation/Assistance Rules & Procedure, 2021 (CARP). The Cooperation/Assistance Framework (CAF) provides for benefits such as possible reduced monetary penalties (Rule 4.1); waiver of the application of the Commission's Administrative Penalties Regulations 2020 (Rule 4.2); as well as prosecutorial discretion, particularly Rules 5.1 and 5.3 (subject to compliance with Rules 3 and 5.4).

Upon full consideration of the record, BAT Parties' additional articulation, representations and correspondence; totality of evidence procured, violations established under law, BAT Parties' entry into, and conduct in cooperation and assistance under the Commission's CAF; the Commission closed the investigation by the Commission and BAT Parties' mutual execution of a Consent Order and Notice with both parties agreeing:

- (1) That BAT Parties shall pay a penalty of \$110,000,000 (One Hundred and Ten Million Dollars) under and pursuant to Sections 155 of the FCCPA, Clause 11 of the Federal Competition and Consumer Protection Commission's Administrative Penalties Regulations, 2020 and Clause 4.2 of the Federal Competition and Consumer Protection Commission's Investigative Cooperation/Assistance Rules and Procedures, 2021;
- (2) That BAT Parties' shall be subject to a compliance and monitoring under the supervision of the Commission for a period of 24 months to ensure appropriate behavioral and business practices modification to be more consistent with compliance with prevailing competition laws/regulations; and tobacco control efforts;

- (3) Mandatory public health and tobacco control advocacy in a manner compliant with tobacco control legislation and regulations, and satisfactory to the Commission as mitigation to evidence of a pattern of undermining, and circumventing national tobacco control policies and regulations; and
- (4) That BAT Parties shall provide Written Assurances to the Commission pursuant to Section 153 of the FCCPA as required.
- (5) In exchange for BAT Parties fulfilling their obligations under the Consent Order, the Commission withdrew pending criminal charges against BATN and at least one employee with respect to obstructing the Commission by attempting to prevent execution of the search warrant and initial lack of cooperation/compliance with steps in the investigation.

The Commission remains committed to its mandate to promote and ensure fair markets and protect consumer interests. The outcome of this investigation demonstrates that commitment and the Commission's desire as well as will to enforce the law and hold businesses accountable; even when it takes complex, painstaking and protracted investigations.

A distorted market redounds only to the benefit of those who engage in malfeasance, is at the expense of others, and an exploitation of consumers, while undermining a stable economy. It compromises a Constitutional and national priority of economic growth and shared prosperity.

## **Management**