

Supplemental Table 1: Documents reviewed for appropriateness of privilege claims

INAPPROPRIATE PRIVILEGE CLAIMS FOR DOCUMENTS PROVIDED INCONSISTENTLY TO MAJOR GUILDFORD DEPOSITORY USERS

| Privileged Document Bates Number | Matching Document Bates Number | Brief Description | Reason why claim of privilege inappropriate |
|---|---------------------------------------|--|---|
| 700452717 | 700452717 | Letter dated 1995 from external legal counsel commenting on impending move to BAT as internal legal counsel | Neither party is from BAT |
| 500015728 | 500015728 | Letter dated 1993 by Paul Adams to Mill Ride Golf Club confirming transfer of membership fee to David Bacon | Type of personal information does not qualify for restricted access. |
| 500015732 | 500015732 | Letter dated 1993 by Paul Adams to district council opposing planning application to install communications mast on local land | Type of personal information does not qualify for restricted access. |
| 500015751 | 500015751 | Fax dated 1993 from BAT HQ to BAT HK providing home address and home/work telephone numbers for Paul Adams | Type of personal information does not qualify for restricted access. |
| 502562938 | 502562938 | Memo dated 1994 from Martin Riordan (Wills) to Michel Descoteaux (Imperial Tobacco, Canada) on plain packaging | Memo discusses legal advice received but neither author nor recipient are legal counsel |
| 304089085 | 304089085 | Minutes of meeting dated 1973 on duty free marketing | Information does not qualify as privileged under the four categories |
| 203477215 | 203477215 | Memo dated 1994 on BAT negotiations on investment in Kyrgyzstan including reference to preparation of legal analysis of tax issues by others | Memo discusses legal advice to be sought but neither author nor recipient are legal counsel |
| 202718107 | 202718107 | Minutes of meeting dated 1994 of BAT Chairman's Executive Council regarding Caribbean business | Minutes comments on legal advice but advice not included in document |

INAPPROPRIATE PRIVILEGED CLAIMS FOR SAMPLE OF DOCUMENTS (N=2575) SUPPLIED INCONSISTENTLY TO ALL USERS

| Privileged Document Bates Number | Matching Document Bates Number | Brief Description | Reason why claim of privilege inappropriate |
|---|---------------------------------------|---|--|
| 500875976 | 500875976 | Submission dated 1994 by Wills to Australian Inquiry into tobacco industry | Comments on potential legislative approach but author not proven to be legal counsel. Content does not contain legal advice or trade secrets. |
| 100346742 | 100346742 | Note dated 1973 on three US patent applications by BAT | Author and recipient are not legal counsel. Content refers to legal advice received by external party but does not constitute legal advice. |
| 301593453 | 301593453 | Memo dated 1993 on company response to compete with "PMI pricing initiative". Produced version redacts section entitled "Legal Position". | Author and recipient are not legal counsel. Contents summarise legal advice received but does not constitute legal advice. |
| 325202101 | 325202101 | List of patent applications dated 2000 provided by Derwent Information Limited related to tobacco production processes. Produced version contains redacted handwritten marginalia. | Source is provided by commercial business information company, obtained from public records, and does not constitute a trade secret or legal advice. |
| 500850838 | 500850838 | Drafted letter undated to J. Osman (UK Health and Safety Executive) on inclusion of tobacco on list of main causes of occupational asthma. Document withheld on grounds that inferred authorship by legal counsel. | No author cited in draft letter and recipient not legal counsel. Contents do not contain legal advice. |
| 700413029 | 700413029 | Email dated 1995 on a request by the Bangladesh Army to sell land and cigarette factory in Chittagong to extend a Military Academy. Produced version redacts two sentences in paragraph related to opposition by Army to sale to third party. | Author and recipient are not legal counsel. Content does not contain legal advice or trade secrets. |
| 503142340 | 503142340 | Copy dated 1991 of Q&A guide on environmental tobacco smoke by Rothmans. Non-produced version withheld on basis that original marked "Privileged and Confidential". | Author and recipient are not legal counsel. Content does not contain legal advice or trade secrets. |
| 502564787 | 502564787 | Draft letter dated 1995 from Tobacco Manufacturers | Author and recipient are not legal |

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| | | Association to Magistrates' Association on strict conditions for granting of children's certificates to limit exposure to secondhand smoke. | counsel. Neither party also not from BAT. Content does not contain legal advice or trade secrets. |
| 104585326 | 104585326 | Draft letter dated 1986 from Martin Cannon (Public Relations, BAT) to <i>The Guardian</i> on variation of tar levels in products for different markets and BAT compliance with local laws. | Author not legal counsel. One of five recipients are legal counsel. Content refers to compliance with local laws but does not constitute legal advice. |

COMPARISON OF DOCUMENTS WITH PRIVILEGE CLAIMS WITHHELD AND SUBSTANTIVELY-IDENTICAL DOCUMENTS

| Privileged Document Bates Number | Matching Document Bates Number | Brief Description | Reason why claim of privilege inappropriate |
|---|---------------------------------------|---|---|
| 321167637 | 321013090 | Email dated 1997 on plans for external review of Group Strategic Research (GSR) programme focused on developing reduced risk products | Author (scientist) and recipient (human resources) are not legal counsel |
| 325035905 | 325035901 | Cover email dated 1999 for summary of European Legal Report to BAT executives | Author not legal counsel and report not attached |
| 325096209 | 321713808 | Cover email dated 2000 to BAT executives to circulate memo on the conduct of "Standing Committee Business" (found at 321713806-3807) | Written by legal counsel but does not contain legal advice |
| 325411308 | 325039684 | Cover letter dated 2000 from Nick Brookes to Ulrich Herter to enclose BAT 2001-2002 Plan for the America-Pacific Region (not included) | Brookes is lawyer but not acting in capacity of legal counsel for BAT in this context. Contents of letter not legal advice. |
| 325411309 | 325049280 | Memo dated 2000 from Carl Schoenbacher (Brown & Williamson Finance Department) to Keith Dunt (BAT Finance Department) on financial performance including projected savings | Author not legal counsel and contents not legal advice. |
| 321749602 | 322263973 | Letter dated 1997 from Ronald Rothschild (independent scientist) to Steve Bromley (BAT) seeking to commercialise "an alternative CO ₂ expansion process" | No solicitor-client privilege or trade secret involved, and contents does not contain legal advice |
| 800061767 | 321503335 | Memo dated 1996 from Tony Johnston (BAT) to John Winebrenner (BAT) on potential negotiation of licensing agreement between BAT and RJR. | Author not legal counsel and contents not legal advice |
| 800061773 | 321503341 | Memo dated 1996 from David Berry to Bob Dean (BAT) describing four scenarios on how BAT and RJR might work together in South Africa, and their prospects for profitability. | Authors are marketing executives and not legal counsel. Contents mention legal issues but does not contain legal advice. |
| 800061793 | 700395378 | Letter dated 1996 from R.H. Pilbeam (BAT) to P.V. Nasasimham (Indian Tobacco Company) on mismanagement and improprieties by ITC executive directors. | Author and recipient are not legal counsel and contents refer to, but do not contain, legal advice. |
| 325005892 | 322258664 | Email dated 2000 from Jeffries to Mike Nightengale enclosing proposed covers for reports on Marketing Standards and Youth Smoking Prevention (not attached). | Email sent to BAT legal counsel but does not contain legal advice. |

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| 322045183 | 322046198 | Memo dated 1989 from Patrick Sheehy (BAT Chairman) to H.F. Frigon (BATUS) providing guidelines on strategic priorities and financial targets. | Author and recipient are not legal counsel and contents do not contain legal advice. |
| 321301350 | 322015368 | Unofficial meeting notes dated 1999 of CECCM Board Meeting. | Non solicitors discuss legal opinion but legal opinion not attached. Legal opinion to third party and not BAT. |
| 321383346 | 321383344 | Emails dated 1998 between marketing executives on marketing plans in Middle East and duty free. | Redacted section asks whether legal opinion has been sought on the use of a disclaimer in marketing campaign but author and recipient are not legal counsel. |