

# Worldwide news and comment

## WORLD: US CHAMBER OF COMMERCE SHILLS FOR BIG TOBACCO

In 2009, when tobacco plain packaging legislation was first being considered in Australia, the president of the US Chamber of Commerce in Washington made a submission to the country's preventative health taskforce, which was appointed by the Australian Government to provide recommendations about national tobacco control measures.

At the time, the move by the US group was considered highly unusual. Although internal tobacco industry documents made public during the US tobacco trials showed the US Chamber of Commerce had long had a cosy relationship with big tobacco to influence USA domestic policy, the attempt to do so in another country marked a turning point.

Now, it has been revealed that the US Chamber, which spends more on lobbying than any other US interest group, is engaged in a global, systematic approach to fight tobacco control measures. Investigative reports in the *New York Times*, together with a report titled *US Chamber of Commerce: Blowing Smoke for Big Tobacco* published in July 2015 by a coalition of health and civil society organisations, have documented the extensive tactics by the both the US Chamber and its network of more than 100 local affiliates (known internationally as AmCham).

Countries that have been targeted by the US Chamber and/or local AmCham branches include Nepal, Jamaica, Uruguay, Moldova, the Philippines, El Salvador, Australia, New Zealand, Indonesia, Croatia, Estonia, Ireland, Poland, Lithuania and Ukraine. It has also been an active lobbyist for the tobacco industry in EU policy making.

The reports detailed a three-pronged approach that includes bullying governments with direct lobbying and letters from the US Chamber or its local affiliate. The letters typically open by noting that the chamber is the world's largest business federation, which has significant investments in the country of interest. The

implied threat is that it may withdraw such investments if decisions are not favourable to its interests. A second strategy is to prompt countries to initiate trade disputes against tobacco control measures by other countries – as in the case of Ukraine, where Prime Minister Arseniy Yatsenyuk recently revealed that the country initiated its case against Australia's plain packaging legislation in response to a complaint from the Ukraine AmCham office.

The third strategy is to lobby against tobacco-related exceptions within trade policy. US Chamber of Commerce president Thomas Donohue has been personally involved in lobbying to preserve the right of the tobacco industry to sue under international trade agreements, particularly the Trans Pacific Partnership (TPP). The TPP is currently being negotiated by several Pacific Rim countries, and has attracted fierce criticism for the secrecy surrounding the negotiation process, as well as lively debate about whether tobacco should be 'carved out' of the agreement.

In a response to the *New York Times*, Donohue defended the chamber's advocacy on behalf of the tobacco industry on the basis of protecting intellectual property and compliance with international commitments – perhaps selectively oblivious to the need for countries to comply with their commitments under the WHO Framework Convention on Tobacco Control (FCTC). His response ignores the fact that tobacco is the subject of the world's only health treaty precisely because the unique harms wrought by tobacco justify singling out the industry. It also fails to explain why the chamber has opposed smoke free public places and attempted to discredit other policies, such as warning labels, as not being evidence-based.

Donohue also expresses concern that 'discriminatory treatment' (of particular industries) 'can easily spread' – another way of advancing the 'slippery slope' argument the tobacco industry has consistently used against plain packaging. On its website, the US Chamber argues that carving out tobacco is unnecessary because the TPP (like other trade agreements) won't limit governments' ability to enact public health regulations – conveniently ignoring the numerous disputes the tobacco industry has already initiated under just such agreements in order to delay, weaken or avert tobacco control legislation.

The chamber and its local affiliates are aided in their international efforts by a

misperception that it represents, or is an official part of, the US government. Given the crossover between AmCham office holders and US government officials in some countries, this is understandable. In Estonia, the US Ambassador serves as the honorary president of the local affiliate; in Australia, the Chief Executive Officer of the local AmCham was the US consul general in Sydney immediately prior to his appointment. Local AmCham branches also advertise membership benefits including introductions, and in some cases access, to the US embassy and government.

The chamber siding with the tobacco industry is highly problematic for businesses such as health insurers, healthcare providers and hospitals that sit on the US Chamber of Commerce board, many of which publicly promote quitting smoking and offer services to support cessation. A *New York Times* editorial on the issue noted that while many US businesses which are members of the US Chamber of Commerce are focused on domestic issues, tobacco companies prioritise foreign growth markets, particularly low and middle income countries with young populations. While some members have been silent in response to the revelations, US health corporation CVS – which stopped selling tobacco in its pharmacies in 2014 – withdrew from its chamber membership in protest following the *NY Times* reports.

Criticism of the chamber has also come from more unexpected sources. Global public relations giant Burson-Marsteller is well-known for its work to 'shape the debate' on behalf of controversial industries and companies, as well as governments responsible for human rights atrocities. It has also hopped on the climate change denial bandwagon; in 2014, it teamed up with the world's biggest coal company to promote 'coal for poor people' in a campaign aimed at derailing policies to limit carbon pollution by changing the conversation to focus on 'energy poverty' and position coal-fired power as a solution. Criticisms of Burson-Marsteller are perhaps best encapsulated by its work with big tobacco; for many years it worked closely with Altria/Philip Morris, and it established front group the National Smokers' Alliance in the US to oppose smoke free legislation.

While Burson-Marsteller continues to work on many contentious issues, in 2010 it ceased working with clients operating in the tobacco industry, and has publicly criticised the chamber's advocacy on behalf of big tobacco. David Earnshaw, president

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of Burson-Marsteller's Brussels office, told the NY Times "It's pretty obvious that you don't want to be seen doing the bidding of an interest which is no longer legitimate". As WHO Director General Dr Margaret Chan said in a statement "so long as tobacco companies continue to be influential members of the chamber, legitimate businesses will be tarred with the same brush".

More details about this story, including links to the NY Times reports and editorial, and the report *US Chamber of Commerce: Blowing Smoke for Big Tobacco*, are on our website at <http://blogs.bmj.com/tc/2015/07/29/world-us-chamber-of-commerce-and-big-tobacco/>.

### MOLDOVA: TURNING THE TIDE AGAINST TOBACCO

Despite being one of the countries targeted by the US Chamber of Commerce – the local AmCham even has a seat on its national regulatory review panel – Moldova has enacted a ground-breaking new tobacco control law.

The comprehensive new law, first planned in 2012 but delayed by industry opposition, is a particularly significant achievement given that Moldova is not a FCTC signatory. Despite this, the new law will enable Moldova to fulfil several FCTC obligations. It mandates smoke free workplaces and public places, graphic warning labels to cover 65% of the front and back of cigarette packs, bans tobacco advertising and misleading descriptors, and is the first national law to ban menthol cigarettes.

The local AmCham chapter in Moldova, which counts British American Tobacco, Japan Tobacco International and Imperial Tobacco among its members, has been particularly active in lobbying against the new law. In February 2014, AmCham wrote to the Ministry of Health to put forward proposals to weaken the legislation. The US Chamber also wrote directly to the government to criticise the proposed legislation on the basis that it was "not evidence-based, ignored regulatory procedures and violated Moldova's international trade obligations".

That the law was able to pass despite such strenuous opposition demonstrates that the tide is turning against tobacco in a country that has long been a welcoming place for the industry.

### AUSTRIA: EUROPE'S DIRTY ASHTRAY

Austria has continued its near-perfect record of being a haven for the tobacco industry to ply its deadly trade unfettered ahead of the rights of its citizens,

including children, to enjoy good health. A new tobacco control law recently passed parliament; however it will not be implemented until May 2018 and – as with the current inadequate legislation – there is little provision for enforcement.

Austria increasingly lags behind other European countries in tobacco control legislation, and has consistently received the lowest score among European countries in the Tobacco Control Scale (TCS) report, published by the Association of European Cancer Leagues. The TCS measures tobacco control policy implementation in six areas: price and taxation, smoke free areas, consumer information, advertising and promotion bans, health warning labels and cessation support. Austria was at the bottom of the rankings in 2007, 2010 and 2013.

In the 2013 report, it received an overall score of 31 out of a possible 100 (the highest ranked country was the UK, which received 74/100). Austria's scores are notably dismal for price (11/30), public place smoking bans (8/22) and health and public information campaign spending (0/15). Vending machines which enable easy access by children are widely available, the minimum cigarette purchasing age of 16 is easily circumvented, and no display bans are in place for tobacco shops which sell other retail products purchased by children such as candy, soft drinks and magazines.

The new legislation includes some progress, such as expanding long-overdue smoke free requirements in hospitality venues, including in areas serving food or drinks and for areas accessible to children. However, these restrictions will not come into effect until 2018. Despite these small gains, the new law is still woefully inadequate, most notably in the omission of advertising bans, the ongoing availability of vending machines, failure to raise the legal purchasing age from 16 to 18, and failure to ban smoking in hospitals and health care facilities.

While other European countries move ahead on tobacco control, Austria is increasingly becoming the continent's version of Jeff the Diseased Lung.

### CANADA: PROVINCES BAN MENTHOL & OTHER FLAVOURED TOBACCO PRODUCTS

On May 31, 2015, the Canadian province of Nova Scotia became the first jurisdiction in the world to implement a ban on menthol cigarettes and other menthol tobacco products, part of broader legislation banning flavoured tobacco products. In Canada, menthol represents 4.5% of the cigarette market, but among youth smokers menthol smoking prevalence is far higher.

Nova Scotia is among five Canadian provinces that have brought forward legislation to ban flavoured tobacco, including



An event in Halifax, Nova Scotia on May 29, 2015 marks the implementation of Nova Scotia legislation banning flavoured tobacco including menthol. Pictured left to right are Kelly Cull, Canadian Cancer Society; Barbara Stead-Coyle, Canadian Cancer Society; Marika Schenkels, youth advocate; Dr. Robert Strang, Nova Scotia Chief Public Health Officer; Leo Glavine, Nova Scotia Minister of Health and Wellness.

menthol. Alberta's ban will be in full effect from September 30, 2015, and New Brunswick's from January 1, 2016. Ontario's legislation has been adopted with a date for implementation still to be fixed. (Ontario was in fact the first province to commit to banning menthol; the government bill was introduced on November 24, 2014 and adopted on May 28, 2015.) A government bill in Quebec has been introduced but not yet adopted. Legislation has been brought forward in each of the provinces despite opposition from the tobacco industry and from tobacco industry-funded organisations such as convenience store associations.

Provincial legislation is typically drafted to ban characterising flavours in all tobacco products, though some provinces have adopted limited exceptions. For example, Nova Scotia exempts rum, wine, whisky and port flavours in pipe tobacco, and in cigars weighing 5 g or more and costing more than \$4.00 (CAD) per cigar.

Since July 5, 2010, national legislation in Canada has prohibited all flavours (except menthol) in cigarettes, little cigars (weighing 1.4 g or less or with a cigarette filter) and blunt wraps. Amendments will come into force December 14, 2015 to extend this national prohibition to ban flavours in cigars weighing between 1.4 g and 6 g, with exemptions for rum, wine, whisky, port and menthol flavours in most cigars weighing between 1.4 g and 6 g.

There is increasing action globally on flavoured tobacco. The new European Union Tobacco Products Directive has flavoured tobacco provisions including a ban on flavoured capsules in cigarettes effective May 20, 2016, and on menthol cigarettes effective May 20, 2020. Brazil adopted a regulation to ban all flavours including menthol in tobacco products that was to have come into force in September 2013, but implementation has been delayed due to a court proceeding. New York City and the city of Providence, Rhode Island, in the US have in place local ordinances banning characterising flavours in all tobacco products with exceptions for menthol, mint and wintergreen. Other jurisdictions have also taken action.

WHO Framework Convention on Tobacco Control (FCTC) guidelines to implement Articles 9 and 10 (product regulation and disclosures) support government action on flavours stating that "masking tobacco smoke harshness with flavours contributes to promoting and sustaining tobacco use", with menthol specifically cited as an example of such a flavour. The guidelines also state that

"Parties should regulate, by prohibiting or restricting, ingredients that may be used to increase palatability in tobacco products". Going forward, more countries can be expected to do exactly this.

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### SINGAPORE: BAN ON EMERGING TOBACCO PRODUCTS

Singapore is well known globally for its tough stance against tobacco use with one of the highest tax rates on tobacco. In 2010, Singapore became one of the few countries in the world to ban e-cigarettes to curb the entrenchment of new forms of nicotine addiction among the populace, pre-empting their current growth in popularity.

Companies are developing novel tobacco products that can be perceived to

be less harmful than conventional cigarettes, which may also appeal to youth and non-smokers. New smokeless products may also delay quit efforts among smokers who are already thinking of quitting smoking. There is also growing evidence that suggests novel products like e-cigarettes may pose health risks to users. To prevent the entrenchment of such products, on 28 Nov 2014, Singapore implemented a ban on the import, distribution and sale of shisha tobacco. Existing shisha retailers and importers were given a transition period until 31 Jul 2016 to phase out their stocks.

To further curb tobacco consumption in Singapore, which currently stands at 13.3%, Singapore had, on 15 Jun 2015, announced a ban on the importation, distribution and sale of the following tobacco products:- (1) Smokeless cigars, smokeless cigarillos or smokeless cigarettes; (2) Dissolvable tobacco or nicotine; (3) Any



Products currently available in Singapore



Products banned in Singapore under 2010 legislation designed to curb new forms of nicotine addiction

product containing nicotine or tobacco that may be used topically for application or injected into any parts of the body; and (4) Any solution or substance, of which tobacco or nicotine is a constituent, that is intended to be used with an electronic nicotine delivery system or a vaporizer (e.g. e-cigarettes). This ban will take effect on 15 Dec 2015. The emerging tobacco products to be banned have not established a presence in Singapore, nor have we come across any evidence of sales of such tobacco products locally.

In addition, with effect from 01 Aug 2016, the importation, distribution and sale of the following tobacco products will also be prohibited: nasal snuff, oral snuff (i.e. Gutkha, Khaini, Zarda). Such products are available in Singapore currently, though the volume imported is very small compared to conventional cigarettes. Importers and retailers will be given time from now until the start of the ban to phase out their stocks.

Any person or persons found to be importing, distributing and selling the prohibited emerging tobacco products would be liable to a maximum fine of 10,000 Singapore dollars (approximately US\$7335) or imprisonment for a term not exceeding 6 months or both and, in the case of a second or subsequent conviction, with a maximum fine of 20,000 Singapore dollars or imprisonment for a term not exceeding 12 months or both.

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### **JAMAICA: HEART FOUNDATION SUSPENDS CHARITY MEMBERSHIP OVER TOBACCO DONATIONS**

United Way of Jamaica (UWJ) is a key charitable organisation in Jamaica. Through its umbrella group, the Council of Voluntary Social Services (CVSS), it has membership of all of the Non-Government Organisations (NGOs) in the country, including health-related NGOs such as the Heart Foundation of Jamaica, the Jamaica Cancer Society and the Diabetes Association of Jamaica. UWJ and CVSS are sister organisations; their offices, secretariat and CEO are shared, and they have 4 board members in

common. United Way Jamaica provides funding for a range of CVSS member organisation projects.

At a function to celebrate the 29th National Builders Awards Ceremony of UWJ in September 2014, Carreras Limited (a subsidiary of BAT) was lauded as UWJ's highest corporate donor for 2013. Jamaica's Minister of Industry, Investment and Commerce, who was a guest speaker at the function, presented the award. The Minister's involvement contravenes Article 5.3 of the WHO Framework Convention on Tobacco Control, the guidelines of which state that Parties "should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible". The Jamaica Coalition for Tobacco Control (JCTC) wrote to the Minister about the issue; according to his response, the event invitation did not indicate that he would be presenting awards. However, he acknowledged that his role in presenting to Carreras would not be in keeping with the spirit of Article 5.3 of the FCTC.

Against this background, in September 2014, the JCTC wrote to the Chairman of UWJ and suggested that the organisation cease accepting funds from the tobacco industry. Despite further correspondence from the JCTC and the Heart Foundation of Jamaica, the only response received was "We acknowledge receipt of your letter dated September 24, 2014 in which you have raised concerns regarding United Way accepting funds from the tobacco industry. The matter has been brought to the attention of our Board and your concerns have been noted".

The Heart Foundation also wrote to the Chair of CVSS. Although a more positive response was received, stating that consideration could be given to reviewing the criteria for accepting funds at UWJ, to date there has been no change in policy. It is noteworthy that at a celebratory function held in January 2015 by Carreras Ltd (BAT) to honour its CEO for being awarded "Top CEO for 2014" by Business Suite magazine, the Chairman of UWJ was present and gave the vote of thanks to the BAT CEO at the function.

The UWJ's mission on its website is "to improve lives by mobilizing the caring

power of communities to advance the common good". The website further states that "The United Way of Jamaica envisions a society where individuals and families achieve their human potential through education, financial stability and healthy living". Accepting funds from the tobacco industry is not in keeping with United Way's vision. Despite this, the United Way has accepted funding from the tobacco industry in other countries. It seems that there is no policy against accepting donations from this source. Altria's 2012 reporting of Recipients of Charitable Contributions from Altria Family of Companies (USA), listed 11 United Way individual organizations that benefitted from donations. Total donations to charitable institutions reported were US\$40.8 million.

The Heart Foundation of Jamaica has been a member of CVSS for over 40 years, and has previously raised concern about the problem of United Way accepting tobacco industry donations. In view of the current situation, the Heart Foundation of Jamaica suspended its membership, effective April 30, 2015. The Heart Foundation of Jamaica hopes that one day there will be a review in the UWJ/CVSS policy such that the HFJ can reinstate its membership. The matter of United Way accepting funds from the tobacco industry globally is an issue which deserves further investigation and exposure.

(This article and additional information is also published on the Tobacco Control website at <http://blogs.bmj.com/tc/2015/06/10/jamaica-united-way-charity-under-pressure-over-tobacco-industry-links/>).

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