

Worldwide news and comment

AUSTRIA: SMOKE FREE PUBLIC SPACES FINALLY IN FORCE

In November 2019, Austria finally took steps towards basic minimum standards for tobacco control, with the implementation of a comprehensive smoke-free policy covering bars and restaurants.

The move to smoke-free public spaces is well overdue in the country, where political intransigence has resulted in it long being known as the ashtray of Europe. It has consistently lagged behind other European countries – and much of the world – in protecting its citizens from tobacco, with predictable results. From 2000–2018, Austria was one of only three OECD countries that failed to reduce smoking prevalence. Since Austria ratified the WHO Framework Convention on Tobacco Control (FCTC) in 2005, there has been only a small decline in male smoking prevalence, while female smoking prevalence has increased. Twenty four percent of Austrians aged 15 years and older smoke, and the prevalence of youth smoking and non-smoker exposure to tobacco smoke pollution are among the highest in Europe.

Until 2019, smoking was permitted in small bars and restaurants (<50 m²) and smoking rooms in larger hospitality venues. Smoke free rooms in venues with smoking rooms were often inadequately protected from tobacco smoke, and hospitality staff continued to be exposed to tobacco smoke in the workplace. The first legislation mandating a complete ban on smoking in indoor public places was passed in 2015, but only scheduled to take effect 3 years later in 2018. However, after the 2017 Austrian general election, the conservative Austrian People's Party (ÖVP) formed a coalition government with the right-wing nationalist Freedom Party of Austria (FP). The FPÖ made their support conditional on the withdrawal of the 2015 legislation, despite strong public backing for the smoke-free law. In a 2018 representative survey, 70% of Austrians agreed with fully smoke-free hospitality venues, and almost 900 000 Austrian

citizens signed a petition in support of keeping the law.

In March, 2018, the Austrian Parliament sided with the FPÖ and voted to overturn the smoking ban.

Little more than a year later, the government collapsed because of a corruption scandal involving the leadership of the FPÖ. The Austrian Parliament then passed new legislation reinstating the total ban on smoking in enclosed public places.

Austria's tobacco control failure has been an anomaly in a country where the high quality of life is partially attributable to government support and intervention in areas such as subsidised housing, public transport, environmental protection, social welfare and health support. The capital Vienna has repeatedly been voted the most livable city in the world, according to an annual index compiled by the Economist Intelligence Unit. Viennese tap water is legendary for its taste and purity due to strict quality controls. Austria has one of the lowest maternal mortality rates in the world, in part attributable to measures which link qualifying for sizeable child benefits to completion of a doctor-verified series of maternal health exams. The only exception to this 'nanny state' was smoking. Tobacco was first a state monopoly, and later defended as a supposed symbol of freedom by the tobacco industry, supported by its allies in the chamber of commerce and others who framed nicotine dependence as 'free choice'.

Vienna has now started to enforce implementation of the smoking ban. During the first 24 days of November, food inspectors visited 2366 hospitality venues and reported 40 venues for allowing smoking and 13 because of missing no-smoking signs.

The age limit for buying cigarettes in all Austrian provinces was increased recently from 16 to 18 years and some counties started mystery shopping to improve age control. Data from the most recent (2018) Health Behaviour in School-Aged Children survey shows the first promising indications of youth smoking prevalence decline, although some schools which previously had high smoking prevalence (eg, vocational schools) were excluded due to low participation rates.

While this is encouraging, continued strong action is needed to make meaningful progress to reduce both youth smoking and overall smoking prevalence. Internet sales continue to be a problem, and vending machines allow minors to purchase cigarettes with other people's bank cards. Exposure to tobacco

advertising at point of sale continues to be a significant issue. Pricing and taxation also need to be addressed, as cigarettes remain affordable. Measures to enforce FCTC including transparency around government interactions with the tobacco industry need to be put in place.

Now is a potential turning point for Austria to catch up to the rest of the world and end its status as a rogue nation in tobacco control. If the FPÖ does not return to power, and if other political parties resist tobacco industry lobbying, the country has the chance to finally implement a genuinely comprehensive smoke-free law and appropriate youth protection.

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WORLD: ILO FINALLY ENDS TOBACCO INDUSTRY FUNDING

At the end of October, the Governing Body of the International Labour Organization (ILO) endorsed its new integrated strategy for the tobacco sector. The decision ends ILO's involvement in over a decade of tobacco industry corporate social responsibility schemes that have failed to address the systemic exploitation of tobacco growers and farm workers. Expired contracts binding the ILO to Japan Tobacco International and the Ending Child Labour in Tobacco (ECLT) Foundation were not renewed.

By cutting financial ties with tobacco companies the ILO ends its dependency on an industry that exploits weak labour protections, amasses huge profits and leaves tobacco growers trapped in poverty. Its new integrated strategy sector goes beyond child labour to address its root causes. To be funded by contributions from bi-lateral or multi-lateral development funders, the strategy is a breakthrough that empowers the ILO to strengthen protections for tobacco workers across the board and break the cycle that locks them in poverty. While the strategy is global in scope, its implementation will initially focus on Malawi, Tanzania, Uganda and Zambia, to ensure the continuity of ILO's work in these countries.

Building on recent efforts to reduce tobacco industry influence within the United Nations system, the ILO strategy reaffirms the UN Economic and Social Council (ECOSOC) Model Policy for UN Agencies and FCTC Article 5.3. It also builds on the momentum to implement

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FCTC Article 17 on promoting alternative livelihoods for tobacco farmers and workers.

The decision on protecting public health policies from the vested interest of the tobacco industry (Decision 18) of the Eighth session of the Conference of the Parties to the FCTC (COP8) encouraged the involvement of FCTC States Parties, the FCTC Secretariat and COP observers in the ILO decision making process.

The Governing Body decision reinforces the ILO's capacity to act as an independent moderator of the dialogue between governments, employers and workers. It also sends a clear signal to tobacco companies that they must address the root causes of poor working conditions among tobacco growers by closing the wage gaps in their supply chains, upholding workers' right to organise and keeping labour contracts transparent.

There are several important lessons to be learnt from the process for the ILO to end tobacco industry funding. Alongside representatives of governments, the ILO's unique tripartite structure gives a voice in its governance to representatives of workers (labour unions) and of employers (including the tobacco industry). Within the Governing Body, efforts to end tobacco industry funding were led by workers' representatives and FCTC-friendly states. The process, which dragged through several Governing Body meetings, offered benefits to those involved from both the labour and health sectors.

Tobacco control networks gained by strengthening their connection with labour officials and unions: in Brazil, Tanzania and Zambia health groups worked at national level with labour officials or unions and/or the press to influence the ILO decision. The African Tobacco Control Alliance (ATCA) used media coverage to generate grassroots pressure on African governments. In Uganda, the Ministry of Health urged the Ministry of Labour to comply with national law on Article 5.3 of the FCTC. Among labour officials, the debate raised awareness of the FCTC and the need for policy coherence.

The ILO process has shown that we still have far to go to develop the inter-sectoral collaboration needed to achieve the Sustainable Development Goals (SDG) health target. During the ILO debate, many labour leaders and officials considered health sector representatives as intruders, not allies. Tobacco control advocates learnt to be careful to distinguish between the types of engagement with the tobacco industry that ILO must maintain in order to best protect workers,

and the kind that compromise the organisation's independence and effectiveness.

The international tobacco control and health community need to follow through and build on the lessons learnt. It is important to strengthen alliances with workers' groups, supporting their efforts to protect and empower tobacco growers, as well as support alternative livelihoods, while promoting fair living earnings for tobacco farmers and farm workers and fair tobacco leaf prices. Tobacco taxation should be promoted to garner domestic funding for activities to ensure decent work for tobacco workers. Civil society can also facilitate dialogue between Ministries of Health and Ministries of Labour, building on the access that we have developed with labour officials and activists in other sectors. The implementation of the new ILO strategy will need to be followed closely, engaging in the dialogue it develops to keep prevention against health hazards high on the agenda. Finally, it is vital to keep monitoring tobacco industry interference and engage with other sectors to raise awareness of its implications for their work.

The real meaning of the ILO decision will be negotiated through the details of its implementation at national level. Local tobacco control networks can play an important role in seeing that the spirit of the ILO decision remains intact.

This is an edited version of an article published on the Tobacco Control website. The full article can be found at

<https://blogs.bmj.com/tc/2019/12/01/world-international-labour-organization-ilo-ends-tobacco-industry-funding/>. Contributing authors: Leonce Dieudonné Sessou, Fastone Goma, Lutgard Kokulinda Kagaruki, Marty Otanez and Hellen Neima.

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AUSTRALIA: FURTHER IMPLEMENTATION OF FCTC 5.3 GUIDELINES

In November 2019, the Australian government released guidelines on interactions with the tobacco industry, in line with FCTC Article 5.3 requirements for governments to protect public health policies from commercial and other vested interests of the tobacco industry.

The new guidelines are designed to expand Australia's obligations to include new and emerging products, such as e-cigarettes and heated tobacco products, in response to the increasing integration between alternative nicotine product manufacturers and the tobacco industry. The Australian Government supports the decision of the Sixth Conference of the Parties to the WHO FCTC to consider taking measures to "protect tobacco-control activities from all commercial and other vested interests related to ENDS/ENNDS, including interests of the tobacco industry".



Figure 1 Marlboro and Ferrari advertising, Monaco (2015) and Mission Winnow and Ferrari advertising, Monaco (2019). Top image source: <https://images.app.goo.gl/VdUActL9eAifErvVA>. Bottom image source: <https://images.app.goo.gl/coYDXj3oFNuYR8o36>.

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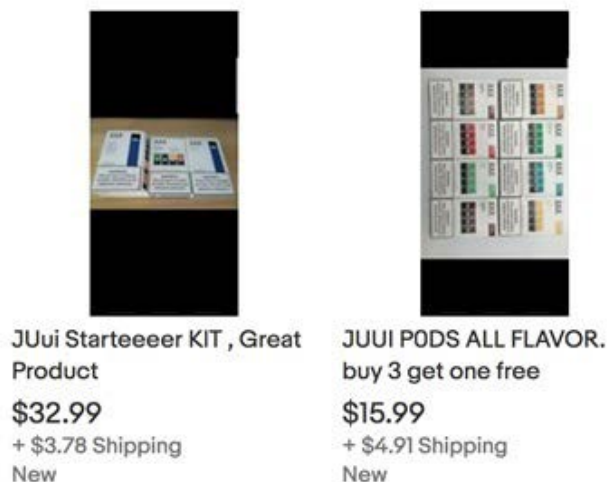


Figure 2 Sponsored JUUL listings November 8, 2019. Screenshot from: <https://www.ebay.com/itm/JUUL-5-ALL-FLAVOR-buy-3-get-one-free/303342185778>.

It provides guidance on the legal obligations placed on public health organisations and officials by the FCTC to de-normalise ‘socially responsible’ activities, manage conflicts of interest, avoid preferential treatment, and reject partnerships with the tobacco industry.

The Australian Government Department of Health has also published a report on significant interactions between the Department and the tobacco industry.

In October 2019, the Victorian state government also passed legislation to tighten existing tobacco advertising laws. This legislation extends the definition of tobacco or e-cigarette advertising to include indirect marketing such as words or designs that are closely associated with tobacco manufacturers. This legislation will prevent tobacco companies from circumventing laws when attempting to introduce new forms of advertising and sponsorship, particularly through

international teams at motor racing events such as the Australian Grand Prix.

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WORLD: PMI IN GLOBAL MOTORSPORT SMOKE-FREE PR SPIN

Mission Winnov (MW) is a PMI campaign claiming to focus on “...innovation and technology to expedite change” through sponsorship of the Ferrari Formula One (F1) team, the Pramac MotoE team and the Ducati MotoGP team. Ducati launched its 2019 bikes at PMI’s Cube building, with PMI’s Miroslaw Zielinski and the MW logo designer, Fabio Novembre, presenting.

After the Australian Government launched an investigation into whether MW contravened tobacco advertising laws, Ferrari removed MW branding and

McLaren removed BAT branding (A Better Tomorrow-ABT) for the Australian GP. At subsequent races, Ferrari displayed MW branding and BAT regularly promoted its various “Potentially reduced-risk” brands. In May, PMI was ordered by the French legal system to remove all MW branding for the upcoming French races, and was fined €10000 as MW “...is clearly a (tobacco) sponsorship or patronage operation prohibited by law.”

Unlike ABT, MW has a social media presence across several platforms. MW promoted competitions including track day experiences and VIP tickets to races, sponsored MotoGP video segments, hosted a “harm-reduction through innovation” panel with Dr Peter Harper from the London Oncology Clinic as a panelist, partnered with artists, sports players, actors, and entrepreneurs to discuss “winnowing” and raised funds for NGOs.

MW regularly responds to comments on social media, which provides insight into PMI’s real position on transitioning towards a ‘smoke-free’ future. Comments from posters include: “Wouldn’t a constant evolution/improvement be to stop producing cancer causing products?” with MW replying “...you’re right and that’s actually a goal for us. Yet, that’s not MW’s purpose as it is not about any products or brands.” Another commenter asked “Why don’t you just stop making cigarettes?” with MW responding “That’s actually the plan. We’ve changed, and one of the aspects in that change is our will to do just that...We want to share the transformation within our company.” MW was asked when PMI will announce and end-date to phase out the sale of cigarettes, with MW responding by saying “Our initiative has no ‘ultimate’ or ‘end’ goal... we’ve stated the true purpose of the initiative: to drive change by promoting the constant search for progress.”

PMI spends significant funding to promote the notion that it is changing, yet the company refuses to provide an end-date for the sale of combustible products to achieve its goal of going ‘smoke-free’. MW is used as an avenue to continue promoting PMI’s association with global motorsport while also subliminally promoting its leading cigarette brand through colour and design aspects that closely resemble Marlboro. PMI also uses MW to expand into areas such as harm reduction and Corporate Social Responsibility to enhance its perception of legitimacy.

Jean Todt, President of global motorsport’s governing body, the FIA, stated in March “...tobacco advertising is



Figure 3 Sample JUUL listing November 8, 2019. Screenshot from: <https://www.ebay.com/itm/Hot-Best-Quality-bikini-JUUL-4pcs-Pods/123968530108>.

forbidden... we completely support the WHO position...We are allied very closely with the WHO.” Despite evidence that MW and ABT are classified as forms of indirect tobacco advertising in several jurisdictions, the FIA and the owners of F1, Liberty Media, have done nothing to prevent these sponsorship deals from continuing. This emphasises the need for FCTC signatories to urgently enforce Article 13 guidelines to prevent the indirect promotion of tobacco brand names, colours, logos, designs, or the promotion of tobacco companies themselves.

This article, with additional links, is published on the Tobacco Control website at: <https://blogs.bmj.com/tc/2019/12/01/world-pmi-in-global-motorsport-smoke-free-pr-spin/>

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SOUTHEAST ASIA: TOBACCO INDUSTRY'S 'SMOKE-FREE' DUPLICITY

In October 2019, the South-East Asian Tobacco Control Alliance (SEATCA) released a report titled *Big Tobacco's smoke-free deception: Tobacco trademarks in ASEAN countries uncover the truth*. The report highlights that tobacco companies have registered more Intellectual Property (IP) for cigarette brands than for brands of Electronic Nicotine Delivery Systems (ENDS) or Heated Tobacco Products (HTP) in Indonesia, Malaysia, The Philippines, Thailand and Vietnam.

Philip Morris International (PMI), Japan Tobacco International (JTI) and British American Tobacco (BAT) filed 533 IP registrations for cigarette brands, compared with 169 applications for HTP and ENDS. Of these, 357 cigarette brand registrations were approved compared with 112 for HTP and ENDS.

PMI filed 453 trademark applications across the five countries for both existing and new cigarette brands. Of these, 332 were for cigarettes, 97 for HTP, and 24 for ENDS.

HTP and ENDS trademarks are being registered even when these products are prohibited. Despite HTP and ENDS being banned in Thailand since 2014, 34 new trademark applications were submitted, including PMI's IQOS. PMI is pressuring government and aggressively promoting its new products to “give people a safer alternative.”

This approach provides an additional opportunity for tobacco companies to interfere with local tobacco control laws and policies. Several trademark

applications directly violate tobacco control laws which prohibit misleading or deceptive descriptors, such as “Marlboro Zero”, “Marlboro Zero Addictive”, “Marlboro Silver Less Smell”, and “Marlboro Fine Touch Less Smell”.

The findings from this report demonstrate the duplicity of the tobacco companies' smoke-free rhetoric, as cigarette sales continue to be the core source of revenue for the tobacco industry. If tobacco companies were sincere about claiming to promote a smoke-free society, they would stop manufacturing, selling and marketing cigarettes, particularly in lower income countries which are the industry's most important growth markets.

The WHO has stated explicitly that all forms of tobacco use, including HTP, are harmful, as tobacco is inherently toxic and contains carcinogens even in its natural form. Currently, the WHO states that there is no evidence to demonstrate that ENDS and HTP are less harmful than conventional tobacco products and conclusions cannot yet be drawn about their ability to assist in quitting smoking.

It is recommended that IP registration offices should inform the Ministry of Health about all tobacco-related IP applications; that applications for new cigarette brands and variants should be denied; and a thorough review of new trademarks being registered by tobacco companies should be undertaken to develop policies that can enhance efforts to reduce all forms of tobacco use.

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USA: JUUL LISTINGS CONTINUE TO BE A CONCERN ON EBAY

In April 2018, the U.S. Food and Drug Administration (FDA) indicated that it had contacted eBay about the presence of listings for JUUL e-cigarettes on its website. At the time, the FDA thanked eBay for “swift action” to remove these listings and for the adoption of new measures that would prevent JUUL listings from being made (<https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-enforcement-actions-and-youth-tobacco-prevention>). Our research published in Tobacco Control in September 2018 (<https://tobaccocontrol.bmj.com/content/28/6/617>) documented the removal of most existing JUUL listings, although several eBay vendors were already relisting JUUL products

using spelling variants in order to avoid detection.

Eighteen months since the FDA's initial action, and despite a recent letter of concern from several U.S. Senators (<https://www.shaheen.senate.gov/news/press/shaheen-group-of-senators-call-on-ebay-alibaba-and-craigslist-to-crack-down-on-sales-of-illegal-vaping-products>), JUUL listings persist on eBay. Vendors now consistently use spelling variations (eg, JUUI, JUUL4) and misclassifications for products (eg, one listing found in November 2019 was classified as swimwear). Despite these potential barriers to detection and removal by eBay itself, publicly available view and sales data indicate that those interested in purchasing JUUL products via eBay can find them with relative ease. In November 2019, a set of Mango JUUL pods with the listing title “Hot Best Quality bikini (JUUL 4pcs Pods)” was listed as having sold six units and receiving 81 views within just 1 hour. eBay's own search algorithms further compound the issue. Once someone has found one eBay listing for JUUL, eBay helpfully recommends similar items. After searching for JUUL items, eBay will also frequently follow-up with an email to ask if the JUUL item viewed is still of interest. eBay also continues to accept JUUL items as sponsored listings (figure 1).

These features are intended to be content neutral and are designed to drive sales for eBay and its individual vendors. However, eBay's continued failure to effectively enforce its own ban against JUUL listings results in a situation in which eBay is promoting the sale of JUUL devices with no quality assurance or age verification. With the removal of most JUUL flavours from the U.S. retail market, it is increasingly important to focus on online platforms such as eBay as potential drivers of both sales to minors and counterfeit products. eBay has offered little in the way of transparency about its current efforts to restrict sales of JUUL and other e-cigarette products, however it is clear that these efforts have yet to resolve the issue.

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