

**Environment and Communications**  
Answers to questions on notice  
**Climate Change, Energy, the Environment and Water Portfolio**

**Question No:** SQ23-000522  
**Hearing:** Supplementary Budget Estimates  
**Outcome:** Outcome 1  
**Division/Agency:** Emissions Reduction Division  
**Topic:** Climate Active - correspondence from the Department of Health  
**Hansard Page:** 47 - 48  
**Question Date:** 13 February 2023  
**Question Type:** Spoken

**Senator Hughes asked:**

Senator HUGHES: Can I follow up on a point Senator Hanson-Young made—and it's 1.2. [inaudible] paper notes. Other than British American Tobacco, what other companies have the department decided, on grounds other than climate—acting as the morality police—to take advice from the department of health to remove this Climate Active branding? I've had a look at the Climate Active website. I have it here now. It actually refers to producing a particular product, for example, a bottle of wine. Have the department of health referred to you— have they raised concerns about fast food? Have they raised concerns about particular pharmaceutical companies that do, perhaps, birth control or erectile dysfunction, when the morality police decide they don't like those companies? What other companies have been referred with regard to Climate Active and then lost their tick through some moral clause? That is a legal company you've removed it from.

Ms Evans: Yes, it is. We also have obligations that—

Senator HUGHES: That has nothing to do with climate.

Ms Evans: Excuse me, Senator, but Ms Pentony did clarify before that the reason we changed our minds on British Tobacco was because of some specific obligations we have under the—

Senator HUGHES: Yes, the World Health Organization, which is not the Australian government. This is a legal company, and that has nothing to do with a climate end game.

Ms Evans: Those are obligations as a government that we have to be consistent with. We have changed the guidelines of the program to be clear about the tobacco incidents, and that's the only example of that.

Senator McAllister: I think it's worth observing that the guidance for public officials on interacting with the tobacco industry was published in 2019.

Senator HUGHES: It's got nothing to do with interacting with the tobacco industry—

Senator McAllister: Senator Hughes, would you like to—

Senator HUGHES: It has a morality clause from the health department that a climate program not be applied to a legal entity based on health department advice. I would like to put on notice that I would like any communication from Professor Skerritt and anyone else in the department of health to whoever administers this within the department, advising that British American Tobacco should have their climate credentials revoked.

Senator McAllister: We're quite happy to answer your questions—

Senator HUGHES: Good! That's why we ask them!

Senator McAllister: but you may wish to reflect on the publication date for these guidelines and—

Senator HUGHES: This has nothing to do with interaction—

Senator McAllister: May I finish my answer? Would you like the answer?

CHAIR: Senator Hughes, let's just let the minister answer the question—

Senator HUGHES: [inaudible] advice of the department of health. It wasn't to do with an interaction.

CHAIR: Senator Hughes, can we let the minister answer the question.

Senator HUGHES: I know exactly what you're going to say. I know exactly what they are, the guidelines on how to interact. But you didn't say you've interacted with the [inaudible]; you interacted with the department of health, and I want all of that correspondence.

CHAIR: If you could just take that on notice. I feel like we're going round in circles again.

...

Mr Fredericks: Chair, would you mind giving the call quickly to Ms Evans? She did have an issue that she needed to correct.

CHAIR: Yes. I'll ask that we give Ms Evans the space to answer the question.

Ms Evans: I wanted to clarify that I did say, 'on the advice of the department of health', but really what they did was call our attention to the existing guidelines on the—

Senator HUGHES: I look forward to reading that in the correspondence when you table it.

Senator McAllister: Perhaps Ms Evans can explain—

Senator HUGHES: I've asked for it to be tabled and I've explained that I look forward to reading what the advice was.

...

Senator McAllister: The advice we've been provided is that the guidelines make clear that partnerships with the tobacco industry are inappropriate. Those are guidelines that were established under the government which you supported.

Senator HUGHES: And I have asked for copies of the correspondence to be tabled and I have also asked of the correspondence if there were any concerns that were raised about other legal businesses. I'm not the morality police and neither are you. I want to know any other legal businesses that have been threatened with, or have lost, a climate related approval—whether it's climate active or whatever else—based on what they do as a business as opposed to what they are doing on climate action. That is the point.

Senator McAllister: I think the official has made it very clear that there—

Senator HUGHES: She has not answered the question. I want, on notice, the correspondence, Senator McAllister. End of story. On notice. I look forward to reading the advice from the department of health on how they framed it to you.

**Answer:**

There has been no communication to Climate Active from Professor Skerritt.

On 3 August 2022, the Product Stewardship Policy section (within the Environment Protection Division) received an email from the Department of Health and Aged Care relating to an email to the tobacco advertising complaints inbox.

On 4 August the Department of Health and Aged Care provided a summary to the Product Stewardship Policy section of the considerations for Government in dealing with the tobacco industry. This included details that Australia is a signatory to the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC). As a Party to the WHO FCTC, Australia is obliged, under FCTC Article 5.3, to take steps to protect its policy setting and implementation from interference from the tobacco industry and its interests.

Australia was one of the first countries to sign up to the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) after its adoption by the World Health Assembly in 2003 and became a full Party to the treaty when the WHO FCTC entered into force in February 2005.

**Email correspondence from Department of Health to DCCEEW 03/08/2022 and 04/08/2022**

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**From:** [REDACTED]@Health.gov.au>

**Sent:** Thursday, 4 August 2022 3:35 PM

**To:** [REDACTED]@awe.gov.au; [REDACTED]@awe.gov.au>

**Subject:** FW: Climate Active Endorse British American Tobacco. [SEC=OFFICIAL]

[REDACTED]

Additional information as requested.

Australia is a signatory to the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC). As a Party to the WHO FCTC, Australia is obliged, under FCTC Article 5.3, to take steps to protect its policy setting and implementation from interference from the tobacco industry and its interests. Relevant clauses of the FCTC include:

- Consultation with the tobacco industry should be limited to what is necessary for public officials or agencies to enact effective tobacco control measures.
- Action should be taken to de-normalise the tobacco industry's 'socially responsible' activities.
- Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry
- Require that information provided by the tobacco industry be transparent and accurate.
- Do not give preferential treatment to the tobacco industry.

Guidance on these obligations is available at:

1) [WHO FCTC guidelines for implementation article 5.3](#)

The key section of this document relevant to this situation is *Recommendation 6* which recommends actions that should be taken to de-normalise the tobacco industry's 'socially responsible' activities. The tobacco industry conducts activities described as socially responsible to distance its image from the lethal nature of the product it produces and sells or to interfere with the setting and implementation of public health policies. Activities that are described as "socially responsible" by the tobacco industry, aiming at the promotion of tobacco consumption, is a marketing as well as a public relations strategy that falls within the Convention's definition of advertising, promotion and sponsorship.

2) [Guidance for Public Officials on Interacting with the Tobacco Industry](#)

The Department of Health and Aged care developed this guidance document to assist public officials in meeting their obligations under Article 5.3. This guidance includes advice on how public officials should proceed if they are approached about, or become aware of, any tobacco industry 'corporate social responsibility' initiatives.

Promotion of the tobacco industry's carbon neutral operations could be perceived as a corporate social responsibility activity and government endorsement could be in contravention of the FCTC.

For additional contextual information pls refer to these sources which highlight tobacco industry tactics, particularly the "greenwashing" tactic used by the tobacco industry globally.

<https://tobaccotactics.org/wiki/cigarette-filters/>

<https://www.bmj.com/content/367/bmj.l5890>

Please reach out if you or your colleagues require further information or assistance on WHO FCTC Article 5.3

Kind regards

[REDACTED]

[REDACTED] | Director | Tobacco Control

Alcohol, Tobacco and Other Drugs Branch | Population Health Division

Primary and Community Care Group

Australian Government, Department of Health and Aged Care

T: [REDACTED] | M: [REDACTED] | E: [REDACTED]@health.gov.au

Location: [REDACTED]

GPO Box 9848, Canberra ACT 2601, Australia

*The Department of Health and Aged Care acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to all Elders both past and present.*

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**From:** [REDACTED] <[REDACTED]@awe.gov.au>

**Sent:** Wednesday, 3 August 2022 12:02 PM

**To:** [REDACTED] <[REDACTED]@Health.gov.au>; [REDACTED] <[REDACTED]@awe.gov.au>

**Subject:** RE: Climate Active Endorse British American Tobacco. [SEC=OFFICIAL]

Hi [REDACTED]

Thank you for sending through. Can I check my understanding before we work out how to respond, is the Climate Active certification problematic with regards to the FCTC? It's useful to be sure before we reach out to the Climate Active area.

Regards

[REDACTED]

**Product Stewardship Policy and Reform | Commonwealth Sustainable Procurement Advocacy and Resource Centre**

**Environment Protection Division**

Department of Climate Change, Energy, the Environment and Water

Ngunnawal Country, GPO BOX 787 Canberra, ACT 2601

**DCCEEW.gov.au** ABN 63 573 932 849

**Acknowledgement of Country**

Our department recognises the First Peoples of this nation and their ongoing connection to culture and country.

We acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.

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The Department of Climate Change, Energy, the Environment and Water (DCCEEW) met with the Department of Health – Tobacco Control section on the 11/08/2022 to discuss the summary of considerations for government in dealing with the tobacco industry.

***Email correspondence from Department of Health to DCCEEW 13/09/2022***

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Hi [REDACTED],

Thanks for your email and call today.

Our Executive's next availability is 29<sup>th</sup> September 2022 between 1:30 – 5pm, should that be suitable for your Executive.

We wonder if it would assist to have an at officer level discussion prior to this date that could inform a further discussion with our Agency's relevant Executives, should it be required?

In relation to your question regarding the intended reach of The Guide, we note:

- The Guide was developed in consultation with several Australian Government agencies, including the Office of International Law in the Attorney-General's Department, and has been circulated to several agencies including but not limited to the Department of the Prime Minister and Cabinet, Department of Foreign Affairs and Trade, Department of Home Affairs and Treasury.
- The scope of the Guide was informed by the WHO FCTC Guidelines for implementation of Article 5.3, and other relevant decisions of the Conference of the Parties to the WHO FCTC. The [Article 5.3 implementation guidelines](#) aim to assist Australia and other Parties to the FCTC in meeting their legal obligations under Article 5.3 of the FCTC.
- In March 2020, printed copies of the Guide were dispatched to all sitting Members of Parliament and Senators. 140 printed copies of the Guide were also dispatched by DFAT to Australian High Commissions and Embassies.
- The Guide is intended to apply to any official, representative or employee in a Commonwealth government agency, body or entity, or anyone acting on behalf of any branch or level of government. It also includes Members of Parliament and their staff.

We have concerns that Climate Active's Certification of British American Tobacco (BAT) is inconsistent with article 5.3 of the WHO FCTC and could attract significant criticism from stakeholders. In relation to the certification, we note the following:

- We understand from the attached images that BAT has recently received certification via the Australian Government's Climate Active initiative. While we are not aware of all the details surrounding this certification, based on the information available, it may be criticised by stakeholders as not being in the spirit of FCTC Article 5.3.
- In our view, BAT's recent certification appears to be most relevant to the following recommendations in the Article 5.3 implementation guidelines:
  - *(2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur. In setting and implementing public health policies with respect to tobacco control, any necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, Parties should act to prevent or correct this perception.*
  - *(3) Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.*
  - *(6) Denormalize and, to the extent possible, regulate activities described as "socially responsible" by the tobacco industry, including but not limited to activities described as "corporate social responsibility".*

The next steps being undertaken by the Department of Health and Aged Care to further implement Article 5.3 include:

- Finalising the [draft National Tobacco Strategy \(NTS\) 2022-2030](#) which outlines a number of regulatory and non-regulatory measures to protect public health policy, including tobacco control policies, from tobacco industry interference. The new NTS is expected to be finalised in late 2022, subject to endorsement by all Australian governments.
- Increasing awareness of Article 5.3 and tobacco industry practices among government and non-government stakeholders remains a key priority for tobacco control in Australia.
- The first action item proposed in the NTS is to increase awareness among the public, government and non-government organisations about Article 5.3 and tobacco industry practices, including tobacco industry interference in tobacco control policies. It tasks the Australian Government, state and territory governments, NGOs with responsibility for this.
- As an initial step in increasing awareness of Article 5.3 and tobacco industry practices among government officials, the Department of Health and Aged Care proposes to disseminate The Guide to current sitting parliamentarians and Department Heads late in 2022.

I hope the above information is of assistance and look forward to hearing from you of another time to discuss further.

If you have any questions in the meantime, please don't hesitate to contact me.

[REDACTED]

**A/g Director – Tobacco Control Section**

**Alcohol, Tobacco and Other Drugs Branch**



Population Health Division | Primary and Community Care Group

Australian Government, Department of Health and Aged Care

[REDACTED]

Location: [REDACTED]

GPO Box 9848, Canberra ACT 2601, Australia

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