

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

Question No: SQ23-000657
Hearing: Supplementary Budget Estimates
Outcome: Outcome 1
Division/Agency: Emissions Reduction Division
Topic: Climate Active Branding
Question Date: 28 February 2023
Question Type: Written

Senator Hughes asked:

1. Which companies (other than British American Tobacco Australia) has the Dept decided to remove 'Climate Active' branding from, on grounds other than climate?
a) Why was the determination made, and on what grounds?
b) Who made the decision?
c) Please table all correspondence between your department and the Department of Health related to this issue.

Answer:

1. None
 - a) Not applicable
 - b) Not applicable
 - c) See detail below:

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

On 4 August the Department of Health provided a summary to the Product Stewardship Policy section of the considerations for the Australian 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

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]

██████████ | 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: ██████████ | M: ██████████ | E: ██████████@health.gov.au

Location: ██████████

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.

From: ██████████ <██████████@awe.gov.au>
Sent: Wednesday, 3 August 2022 12:02 PM
To: ██████████ <██████████@Health.gov.au>; ██████████ <██████████@awe.gov.au>
Subject: RE: Climate Active Endorse British American Tobacco. [SEC=OFFICIAL]

Hi ██████████

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

██████████

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.

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

Hi [REDACTED],

Thanks for your email and call today.

Our Executive's next availability is 29th 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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