

TOBACCO INDUSTRY MISLEADING ON FLAVOURINGS

Key Points

- Flavourings are an increasingly important part of tobacco industry marketing, particularly to young people. Flavourings enhance attractiveness, encourage youth initiation, and discourage cessation.
- There is no justification for making an addictive, harmful product more attractive.
- Draft guidelines to be considered in November by 171 governments recommend restricting or prohibiting flavourings that make cigarettes and other tobacco products more attractive.
- Contrary to industry claims, guidelines do not recommend a ban on burley tobacco. Cigarettes containing burley continue to be sold in countries with strong restrictions on flavourings.

Introduction

In accordance with the WHO Framework Convention on Tobacco Control, draft guidelines for Articles 9 and 10 (product regulation) have been prepared by a Working Group of Parties for consideration at the Fourth Session of the Conference of the Parties in November 2010. Many governments are receiving representations from the tobacco industry on this issue. As a result, this document has been prepared to respond to tobacco industry arguments/misinformation.

Guidelines on Article 13, Advertising, Promotion and Sponsorship

Existing guidelines under Article 13 of the WHO FCTC on advertising, promotion and sponsorship, adopted by the Conference of the Parties in November, 2008, already recognize the importance of reducing the attractiveness of tobacco products. Paragraph 17 of the guidelines states: "... the restriction should cover as many as possible of the design features that make tobacco products more attractive to consumers such as ... coloured cigarette papers, attractive smells"ⁱ

Tobacco Industry Arguments and Responses

Argument: There is no evidence that flavours make cigarettes more attractive or that flavoured cigarettes increase overall consumption.

Response: There is in fact considerable evidence, some of which is cited in the Annex. The rationale exists for governments to take action – and more and more governments are doing exactly that.

Argument: A prohibition on flavours will result in a ban on American-style cigarettes, which contain burley tobacco as part of the blend. A ban on burley tobacco will have a negative impact on tobacco farmers and will cost jobs. And because American-style cigarettes are the dominant type of cigarette in many countries, this will also lead to widespread contraband and a significant reduction in tobacco taxes.

Response: Under the guidelines each country could choose whether to take action, and could restrict or prohibit flavours as appropriate based on circumstances of the country. In fact, the guidelines specifically recommend that countries "either prohibit or restrict" flavours in cigarettes, which provides flexibility based on national circumstances.



Regarding contraband, the issue does not arise – countries would simply not be required to prohibit cigarettes in the way portrayed by the tobacco industry, or at all. Moreover, controls on flavouring do not translate into a ban on the use of burley tobacco. And as previously indicated, countries would still have the flexibility to adopt measures based on their national circumstances.

Regarding the “jobs” argument, the tobacco industry has a long history of deceptively claiming that jobs will be lost as part of tactics to oppose tobacco control legislation. The current situation is no different.

Argument: A ban on “characterizing” flavour is sufficient, or a ban on fruit and candy flavouring is sufficient.

Response: Different types of restrictions have been implemented by different countries. Although U.S. legislation bans “characterizing” flavours (except menthol), Canadian legislation bans all flavours (except menthol). The opinion was expressed in Canada that tobacco companies should not be allowed to add chocolate, licorice or sugar to make cigarettes taste better and easier to smoke, even though the cigarette did not overtly taste like chocolate, licorice, etc. Also, a ban on all flavours removes the enforcement question as to what is and what is not a “characterizing” flavour. Countries should have the ability to adopt legislation appropriate for their circumstances.

Argument: Tobacco product regulation should only apply to the toxicity and addictiveness of tobacco products, and not to attractiveness.

Response: A growing number of jurisdictions are taking action to control flavours in cigarettes in order to advance public health objectives of reducing tobacco consumption by reducing product attractiveness. Numerous governments and studies have cited how flavouring make cigarettes more attractive (see Annex). Also, as previously noted, the Article 13 guidelines on advertising, promotion and sponsorship already refer to product design features that make tobacco products more attractive. Thus Parties have already agreed that tobacco products should not be made more attractive.

Argument: There should not be any regulation of ingredients where additives are transferred from the packaging to the product.

Response: As a means to add flavours to cigarettes, tobacco manufacturers sometimes place the flavouring on the foil wrapper inside the package. The flavouring then transfers to the cigarettes. Consequently, there would be a loophole if a regulation allowed manufacturers to add flavouring to packaging as an indirect means to flavour cigarettes.

Argument: Guidelines recommending that countries restrict or ban flavours would be disproportionate and would go too far.

Response: Countries have different circumstances, and countries would retain the flexibility to adopt measures (or not adopt) based on their own circumstances. The guidelines recognize this, recommending that countries “either prohibit or restrict” flavours, thus providing flexibility to act as appropriate based on the national market.

Framework Convention Alliance

The FCA is a civil society alliance of NGOs, institutions, experts and others, whose mission is to help develop and implement the FCTC as the basis for effective global tobacco control. It represents more than 350 members in 100 countries. For more information, see www.fctc.org.

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Annex

There are numerous studies and other materials ^{ii, iii, iv, v, vi, vii, viii, ix, x, xi}, some of which are cited below, providing evidence that flavouring of cigarettes and similar products makes the products more attractive and increases overall consumption, as well as new examples of the tobacco industry using flavouring.

If the flavouring of cigarettes has no impact on overall sales, then why is the tobacco industry objecting to measures to restrict or prohibit flavours?

Here is an excerpt (including references) from a U.S. Food and Drug Administration (FDA) fact sheet,^{xii} which describes how smoking of flavoured cigarettes is far more popular among younger people than among older people:

- “In 2004, 22.8% of 17-year-old smokers reported using flavored cigarettes over the past month, as compared to 6.7% of smokers over the age of 25.^{xiii}
- A poll conducted in March 2008 found that one in five youngsters between the ages of 12 and 17 had seen flavored tobacco products or ads, while only one in 10 adults reported having seen them.^{xiv}
- According to one study of youth smokers between the ages of 13 and 18, 52% of smokers who had heard of flavored cigarettes reported interest in trying them, and nearly 60% thought that flavored cigarettes would taste better than regular cigarettes.^{xv}”

The FDA fact sheet also cites tobacco industry internal documents, as indicated by this excerpt (including references):

- Industry documents reveal clear patterns of designing flavored cigarettes to target youth.
- Advisors to one company developed concepts for a “youth cigarette,” including cola and apple flavors, and a “sweet flavor cigarette,” stating, “It’s a well-known fact that teenagers like sweet products. Honey might be considered.”^{xvi}
- A memo from another company instructed workers to “make a cigarette which is obviously youth oriented. This could involve cigarette name, blend, flavor and marketing technique....for example, a flavor which would be candy-like but give the satisfaction of a cigarette.”^{xvii}
- Other internal documents describe sweetened products as “...for younger people, beginner cigarette smokers, teenagers . . . when you feel like a light smoke, want to be reminded of bubblegum.”^{xviii}

The following are government statements from the E.U., Australia, the U.S. and Canada, as well as some other information:

Scientific Committee – European Commission

In a July 6, 2010 draft opinion prepared for the European Commission, the Scientific Committee on Emerging and Newly Identified Health Risks concluded that “Attractiveness can similarly be improved in a number of ways, such as by adding flavours” (p.38). The Committee also stated that “A number of additives favour

attractiveness of tobacco products, and may thus promote smoking initiation” (p.14-15).^{xix}

State of Victoria, Australia^{xx}

In the Australian state of Victoria on May 31, 2010, the Minister of Health announced that the state government would ban fruit and candy flavoured cigarettes. In making the announcement, the Minister recognized that such cigarettes were appealing to children, stating: “Research by Cancer Council Victoria shows that 40 per cent of 16-17 year olds females agree that lolly or fruit flavoured cigarettes made them curious to try them, and one third of males indicated the products would tempt them to try cigarettes. This new ban will come into force to ensure teenagers do not start smoking through the lure of fruit and lolly flavoured cigarettes.”

U.S. Food and Drug Administration:^{xxi}

The following is an excerpt from the U.S. Food and Drug Administration:

“What is the significance of today’s announcement on flavored cigarettes?

Smoking is the leading cause of preventable death in the United States, claiming over 400,000 lives each year. An important way to reduce the death and disease caused by smoking is to prevent children and adolescents from starting to smoke. Studies have shown that 17 year old smokers are three times as likely to use flavored cigarettes as are smokers over the age of 25. In addition to being more attractive to young people, flavored products make it easier for new smokers to start smoking by masking the unpleasant flavor of tobacco. Studies have also demonstrated that young people believe that flavored tobacco products are safer than unflavored tobacco products.

Flavored cigarettes are just as addictive and have the same types of harmful effects as regular cigarettes. Removing these flavored products from the market is important because it removes an avenue that young people can use to begin regular tobacco use. Congress specifically enacted the ban on sale of cigarettes and their component parts, such as filters and papers, which contain certain characterizing flavors. The removal from the market of cigarettes that contain certain characterizing flavors is an important step in the Nation’s efforts to reduce the burden of illness and death caused by tobacco products as authorized by the FSPTCA, signed by President Obama on June 22, 2009.”

Canadian Department of Health^{xxii}

The Canadian Department of Health has stated: “On October 8, 2009, Parliament passed an *Act to amend the Tobacco Act*. The amendments aim to protect children and youth from tobacco industry marketing practices that encourage them to use tobacco products. These marketing practices include the use of additives, such as flavourings, that contribute to making cigarettes, little cigars and blunt wraps more appealing to children and youth”

In Canada, almost all little cigars have been flavoured. The little cigar category was barely in existence 10 years ago, with little cigar unit sales increasing from 53 million in 2001 to 469 million in 2008. A national survey in 2008 found that these little cigars were far more popular among younger people, with 9% of 15-19 year olds having smoked in the previous 30 days, and 12% of 20-24 year olds having done so, compared with only 3% of people aged 25 and over. Also, 31% of 15-19 year olds and 48% of 20-24 year olds had at least experimented with little cigars.^{xxiii}

Endnotes

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- ⁱ Guidelines for Implementation of Article 13 of the WHO Framework Convention on Tobacco Control (Tobacco advertising, promotion and sponsorship)
http://www.who.int/fctc/guidelines/article_13/en/index.html
- ⁱⁱ Manning KC, Kelly KJ, Comello ML., (2009), “Flavoured cigarettes, sensation seeking and adolescents’ perceptions of cigarette brands,” *Tobacco Control*, 18: 459-465.
- ⁱⁱⁱ World Health Organization Study Group on Tobacco Product Regulation. Candy-Flavoured Tobacco Products: Research Needs and Regulatory Recommendations, The Scientific Basis of Tobacco Product Regulation, WHO Technical Report Series 945, 2007, pp. 25-42. Available at: http://www.who.int/tobacco/global_interaction/tobreg/tsr/en/index.html
- ^{iv} Connolly GN (2004), “Sweet and spicy flavours: new brands for minorities and youth,” *Tobacco Control*, 13(3): 211-212.
- ^v Lewis, M.J., Wackowski, O., “Dealing with an innovative industry: a look at flavored cigarettes promoted by mainstream brands” *American Journal of Public Health*, 2006;96(2):244-251.
- ^{vi} Carpenter CM, Ferris Wayne G, Connolly GN, Pauly J, Koh H (2005b), “New cigarette brands with flavors that appeal to youth,” *Health Affairs*, 24(6): 1601-10.
- ^{vii} Carter SM, Chapman S (2006), “Smokers and Non-smokers Talk About Regulatory Options in Tobacco Control,” *Tobacco Control* 2006;15:398-204.
- ^{viii} Danish Cancer Society (2008), “Tobacco Additives – A Study of the Available Literature” 2008 [English summary of full report].
- ^{ix} Talhout R, Opperhuizen A, van Amsterdam J (2006), “Sugars as tobacco ingredient: Effects on mainstream smoke composition,” *Food and Chemical Toxicology*, Nov 2006;44(11):1789-98.
- ^x Connolly GN, Ferris Wayne G, Lymperis D, Doherty M. (2000), “How cigarette additives are used to mask environmental tobacco smoke,” *Tobacco Control*, 9: 283-291.
- ^{xi} Ashare, RL, Hawk LW Jr., Cummings KM, O’Connor RJ, Fix BV, Schmidt WC, “Smoking expectancies for flavored and non-flavored cigarettes among college students” *Addictive Behaviours*, 2007;17:537-544.
- ^{xii} U.S. Food and Drug Administration, “Flavored Tobacco Product Fact Sheet” updated April 19, 2010, accessed June 14, 2010.
<http://www.fda.gov/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/ucm183198.htm>
- ^{xiii} Klein SM, Giovino GA, Barker DC, Tworek C, Cummings KM, O’Connor RJ. Use of flavored cigarettes among older adolescent and adult smokers: United States, 2004-2005. *Nicotine and Tobacco Research*, 2008;10(7):1209-14.
- ^{xiv} National telephone survey of teens aged 12 to 17 and adults conducted by International Communications Research (ICR), March 2008.
- ^{xv} American Legacy Foundation, First Look Report 17: Cigarette Preferences Among Youth-- Results from the 2006 Legacy Media Tracking Online (LMTO), June 5, 2007, http://americanlegacy.org/PDFPublications/fl_17.pdf.
- ^{xvi} Marketing Innovations, “Youth Cigarette - New Concepts,” Memo to Brown & Williamson, September 1972, Bates No. 170042014.
- ^{xvii} R.J. Reynolds Inter-office Memorandum, May 9, 1974, Bates No. 511244297-4298.
- ^{xviii} Report from R.M. Manko Assoc. to Lorillard Tobacco Co. (Aug. 1978), available at <http://tobaccodocuments.org/lor/85093450-3480.html?pattern=85093450-3480#images>.

^{xix} Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR), “Addictiveness and Attractiveness of Tobacco Additives” pre-consultation opinion prepared for the European Commission, Directorate-General for Health & Consumers, July 6, 2010.

^{xx} State Government of Victoria, Australia, Department of Human Services, “Government to butt out fruit flavoured cigarettes” May 31, 2010.

<http://hnb.dhs.vic.gov.au/web/pubaff/medrel.nsf/LinkView/2F57704743D9983FCA257734002238A5?OpenDocument>

^{xxi} U.S. Food and Drug Administration, “Guidance to Industry and FDA Staff: General Questions and Answers on the Ban of Cigarettes that Contain Certain Characterizing Flavors (Edition 2)” December 23, 2009.

<http://www.fda.gov/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/ucm183228.htm>

^{xxii} Canadian Department of Health, “An Act to amend the Tobacco Act” Fact sheet, accessed June 14, 2010 http://www.hc-sc.gc.ca/hc-ps/tobac-tabac/legislation/federal/2009_fact-renseignements-eng.php

See also: Canadian Department of Health, “Government of Canada Delivers on Promise to Protect Kids from Tobacco” April 20, 2010.

http://www.hc-sc.gc.ca/ahc-asc/media/nr-cp/2010/2010_55-eng.php

^{xxiii} Cunningham, R. “Canada: ban on flavours” *Tobacco Control*, 2010;19(1):4-5.

<http://tobaccocontrol.bmj.com/content/19/1/3.full?sid=8a7adc9b-1bda-4c36-bed8-308add53127f>