

ASIAN CONSULTANCY ON TOBACCO CONTROL
亞洲反吸煙諮詢所

Riftswood, 9th milestone,
DD 229, Lot 147,
Clearwater Bay Road,
Sai Kung, Kowloon, Hong Kong.
Tel: (852) 2719-1995

Email: jmackay1@netvigator.com

15 May 2017

To Hon. Dr Kwok Ka Ki,
Hon. Chairman, Bills Committee, Legislative Council

Re: Proposed Government Bill to improve tobacco pack warnings

I am very concerned about the presence and influence of tobacco interests on the Bills Committee (and earlier the Panel on Health Services), e.g.

1. Peter Shiu Kar-fai even declared this month in Legco that he was ‘the tobacco industry representative in Legco.’
2. Wong Ting Kwong is an honorary advisor to a tobacco front group, Tobacco Control Concern Group alliance.
3. Paul Tse has stated ‘I am indeed an honorary adviser to a local tobacco related organisation.’ (HKUAIT, supported by Philip Morris)

ACTION REQUIRED

After seeking written advice from WHO, on the basis of Hong Kong being a Party to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), I would call for the following:

1. That Legco members of the Bills Committee should be asked to declare any interests, financial or otherwise, in the tobacco industry and its allied groups. (Regina Ip did this recently in the PHS)
2. That any members fitting the description under Section 4.8 below of the WHO FCTC Guidelines be disbarred from entering into the discussion, proposing amendments and from voting.

This should apply to any discussion on tobacco in the Hong Kong SAR Legislative Council, and all committees and sub-committees.

WHO Framework Convention on Tobacco Control (WHO FCTC)

Tobacco is not like other issues in that Hong Kong is a party to the World Health Organization Framework Convention on Tobacco Control, and as such is bound by this international treaty.

As a SAR of China, a Party to the WHO FCTC, Hong Kong has certain legal obligations with respect to tobacco control. In particular, Article 5.3 of the Convention calls upon Parties that [**emphasis added**]:

“In setting and implementing their public health policies with respect to tobacco control, **Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry** in accordance with national law.”

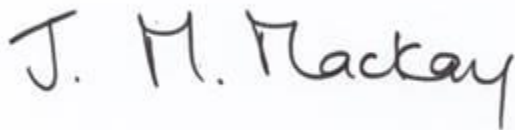
The Conference of the Parties, as the Convention’s governing body, has adopted a set of recommendations on the implementation of this provision. Although not legally binding, the Guidelines constitute an authoritative international policy tool, having been adopted by the Conference of the Parties by consensus. In its section 4.8 the Guidelines recommend that [**emphasis added**]:

“Parties should not allow any person employed by the tobacco industry **or any entity working to further its interests** to be a member of any government body, committee or advisory group that sets or implements tobacco control or public health policy.”

So, it does not have to be a pecuniary connection.

I have already sought advice from WHO in the drafting of this letter.

Yours sincerely,

A handwritten signature in black ink that reads "J. M. Mackay". The signature is written in a cursive, slightly slanted style.

Dr Judith Mackay, SBS, OBE, JP, FRCP(Edin), FRCP(Lon), Dr h.c. (Shue Yan Univ), Dr h.c. (Edin Univ)

Director, Asian Consultancy on Tobacco Control

Senior Advisor, Vital Strategies/Bloomberg Philanthropies
Senior Policy Advisor, World Health Organization

Cc: Dr Douglas Bettcher, Director, Prevention of Noncommunicable Diseases (PND), WHO

Cc: Dr Vera da Costa e Silva, Head of the Secretariat, WHO FCTC

Cc: Dr Sophia Chan, Deputy Secretary, Food and Health Bureau