

s22

From: s22
Sent: Thursday, 4 August 2022 3:35 PM
To: s47F @awe.gov.au; s47F
Cc: ROBERTS, Belinda; s22
Subject: FW: Climate Active Endorse British American Tobacco. [SEC=OFFICIAL]

s47F

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

s22

s22 | 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

s22

Location: Sirius Building s22
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: s47F @awe.gov.au>

Sent: Wednesday, 3 August 2022 12:02 PM

To: s22 @Health.gov.au>; s47F @awe.gov.au>

Cc: ROBERTS, Belinda <Belinda.Roberts@health.gov.au>; s22 @health.gov.au>;

s22 @Health.gov.au>; s22 @health.gov.au>; s22 @health.gov.au>

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

Hi s22

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

s47F

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

s47F @environment.gov.au

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.

From: s22 @Health.gov.au>

Sent: Wednesday, 3 August 2022 11:57 AM

To: s47F @awe.gov.au>; s47F @awe.gov.au>

Cc: ROBERTS, Belinda <Belinda.Roberts@health.gov.au>; s22 @health.gov.au>;

s22 @Health.gov.au>; s22 @health.gov.au>; s22 @health.gov.au>

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

s47F

We received the email below through our tobacco advertising complaints inbox. The stakeholder requests that we refer the matter to your portfolio for action and response.

Let us know if you want to respond directly. Alternatively if you would like us to reply directing them to contact you directly.

Happy to discuss

Kind regards

s22

s22 | 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

s22

Location: Sirius Building s22

GPO Box 9848, Canberra ACT 2601, Australia

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From: Rob Cawthorne s22

Sent: Tuesday, 2 August 2022 10:49 PM

To: tobaccoadvertising <tobaccoadvertising@health.gov.au>

Subject: Climate Active Endorse British American Tobacco.

REMINDER: Think before you click! This email originated from outside our organisation. Only click links or open attachments if you recognise the sender and know the content is safe.

To whom this may concern,

While examining other issues with carbon neutral claims under the Climate Active program I noticed that the Climate Active program run by the department of industry has endorsed / certified British American Tobacco for their Climate action.

I am not sure if this is a breach of the ban on tobacco advertising, however I still thought this should be brought to your attention and in my opinion is certainly not something that any federal government department should be endorsing.

The program displays the logo page 4 of the certified members list found at - <https://www.climateactive.org.au/buy-climate-active/certified-brands#4>. While BAT do not appear to have promoted the certification outside the organisation albeit the certification itself it could have the effect of saying smoking is not so bad because it causes no impact on our climate. Clicking on the link leads to the members page at <https://www.climateactive.org.au/buy-climate-active/certified-members/british-american-tobacco-australia>, which is designed to allow provide consumers with disclosure surrounding the climate action an organisation has taken.

I would encourage the department of health to request of the department of industry and the climate active program to remove the listing even if they still choose to provide the certification.

Kind regards,



Rob Cawthorne
Managing Director

THE CARBON REDUCTION INSTITUTE

E: s22 [redacted] | www.noco2.com.au
 M: s22 [redacted] | P: 02 8228 7300 | F: 02 8228 7350
 A: Us22 [redacted]
 W: s22 [redacted]

Calculate and negate your personal climate change impact at: secure.noco2.com.au
 Help Solve Climate Change. Source from the [Low Carbon Economy Directory](#)

I acknowledge the Traditional Owners and Custodians of the lands on which I live and work and pay respects to Elders past, present, and emerging.



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s22

From: s47F @industry.gov.au>
Sent: Tuesday, 9 August 2022 3:07 PM
To: s22
Cc: s47F ; s22
Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

Great thanks s22
 Will await time for catch up.
 s47F

OFFICIAL

From: s22 @Health.gov.au]
Sent: Tuesday, 9 August 2022 2:37 PM
To: s47F @industry.gov.au>
Cc: s47F @industry.gov.au>; s22 @health.gov.au>; s22 @Health.gov.au>; s22 @health.gov.au>; s22 @health.gov.au>
Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

Hi s47F

Thanks for reaching out for a discussion on WHO FCTC Article 5.3 matters.

s22

I will get s22's team to reach out and organise a time to catch up with you but likely to be Thursday or Friday at the earliest.

s22

s22 | **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

s22

Location: Sirius Building s22
 GPO Box 9848, Canberra ACT 2601, Australia

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From: s47F @industry.gov.au>
Sent: Tuesday, 9 August 2022 8:48 AM
To: s22 @Health.gov.au>
Cc: s47F @industry.gov.au>
Subject: FW: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

HI s22

s47F kindly passed on your details.

Do you have anytime today for a quick teams meeting to discuss Climate Active and BATA?

s47F



s47F

Director – Strategy and Engagement | Climate Active

Department of Climate Change, Energy, the Environment and Water

Ngunawal Country, Industry House, 10 Binara Street (GPO Box 2013) Canberra ACT 2601

s47F [@industry.gov.au](mailto:s47F@industry.gov.au)



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OFFICIAL

From: s47F [@awe.gov.au](mailto:s47F@awe.gov.au)

Sent: Monday, 8 August 2022 8:51 PM

To: s47F [@industry.gov.au](mailto:s47F@industry.gov.au)>

Cc: s47F [@environment.gov.au](mailto:s47F@environment.gov.au)>; s47F

[@environment.gov.au](mailto:s47F@environment.gov.au)>

Subject: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

Hi s47F

Good to run into you over the weekend – fortuitous timing!

As I mentioned, our counterparts from the Department of Health reached out last week after a stakeholder raised concerns about Climate Active's endorsement of British American Tobacco. s22, Director, Tobacco Control (details below) provided the following summary of considerations for government in dealing with the tobacco industry:

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:

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<https://tobaccotactics.org/wiki/cigarette-filters/>
<https://www.bmj.com/content/367/bmj.l5890>

s22 is happy to discuss in more detail if you need additional info or assistance in interpreting the WHO FCTC Article 5.3. His details are s22

Also feel free to shout out if you need anything further from us and I'm sure I'll run into you sometime soon!

Sincerely,

s47F

s47F | Director

Product Stewardship Policy | Environment Protection Division

Ngunnawal Country, John Gorton Building, King Edward Terrace, Parkes ACT 2600 Australia

Department of Climate Change, Energy, the Environment and Water

s47F @environment.gov.au

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From: s22
Sent: Tuesday, 13 September 2022 11:20 PM
To: s47F
Cc: s47F ; s22 ; ROBERTS, Belinda
Subject: FW: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]
Attachments: IMG_6778.PNG; IMG_6779.PNG; Climate Active.PNG; Climate Active 2.PNG

Hi s47F

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.

s22

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

s22

Location: Sirius s22

GPO Box 9848, Canberra ACT 2601, Australia

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----- Forwarded message -----

From: s47F <[redacted]@industry.gov.au>
Date: 11 September 2022 at 10:16:26 AEST
Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]
To: s22 <[redacted]@health.gov.au>
Cc: s22 <[redacted]@Health.gov.au>, s47F <[redacted]@industry.gov.au>

Hi s22

s22

s22

Has DoH provided any advice re the intended or actual reach of their guidance? We would appreciate advice on whether this sort of thing falls within the intended scope, and any insights regarding the risk of criticism.

s42
[Redacted]

Happy to discuss tomorrow.

regards

s47F
[Redacted]

OFFICIAL

s22
[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

s22

[Redacted]



[Redacted]



[Redacted]

OFFICIAL

From: s47F [Redacted] <[@awe.gov.au](mailto:s47f@awe.gov.au)>
Sent: Tuesday, 9 August 2022 5:27 PM
To: s47F [Redacted] <[@industry.gov.au](mailto:s47f@industry.gov.au)>
Cc: s47F [Redacted] <[@environment.gov.au](mailto:s47f@environment.gov.au)>
Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

Hey s47F

s22 has asked that your team reach out to the stakeholder who raised concerns about the certification of British American Tobacco. Are you able to close the loop/let them know that their concern has been received and is being reviewed/will be addressed appropriately etc?

The email came from Rob Cawthorne and is copied below:

To whom this may concern,

While examining other issues with carbon neutral claims under the Climate Active program I noticed that the Climate Active program run by the department of industry has endorsed / certified British American Tobacco for their Climate action.

I am not sure if this is a breach of the ban on tobacco advertising, however I still thought this should be brought to your attention and in my opinion is certainly not something that any federal government department should be endorsing.

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Kind regards,



Rob Cawthorne
Managing Director

THE CARBON REDUCTION INSTITUTE

E: s22 | www.noco2.com.au

M: s22 | P: 02 8228 7300 | F: 02 8228 7350

s22

Calculate and negate your personal climate change impact at: secure.noco2.com.au
Help Solve Climate Change. Source from the [Low Carbon Economy Directory](#)

I acknowledge the Traditional Owners and Custodians of the lands on which I live and work and pay respects to Elders past, present, and emerging.



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Let me know if there are any issues!

Sincerely,

s47F

s47F | Director

Product Stewardship Policy | Environment Protection Division

Ngunnawal Country, John Gorton Building, King Edward Terrace, Parkes ACT 2600 Australia

Department of Climate Change, Energy, the Environment and Water

s47F@environment.gov.au

From: s47F

Sent: Monday, 8 August 2022 8:51 PM

To: s47F <s47F@industry.gov.au>

Cc: s47F <s47F@environment.gov.au>; s47F

<s47F@environment.gov.au>

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[SEC=OFFICIAL]

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

s22 is happy to discuss in more detail if you need additional info or assistance in interpreting the WHO FCTC Article 5.3. His details are T: s22 [REDACTED]

Also feel free to shout out if you need anything further from us and I'm sure I'll run into you sometime soon!

Sincerely,

s47F [REDACTED]

s47F | Director

Product Stewardship Policy | Environment Protection Division

Ngunnawal Country, John Gorton Building, King Edward Terrace, Parkes ACT 2600 Australia

Department of Climate Change, Energy, the Environment and Water

 s47F @environment.gov.au

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[SEC=OFFICIAL]



[← Back to Certified Brands](#)

British American Tobacco Australia



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British American Tobacco Australia imports and distributes cigarette, roll-your-own and pipe tobacco products. We employ around 400 staff and have a head office and warehouse in Sydney, with trade offices in SA, WA, Qld and Victoria.

2 / 21



100%



Climate Active Public Disclosure Statement



An Australian Government Initiative



NAME OF CERTIFIED ENTITY	British American Tobacco Australia Limited
REPORTING PERIOD	1 January 2021 – 31 December 2021
DECLARATION	<p><i>To the best of my knowledge, the information provided in this public disclosure statement is true and correct and meets the requirements of the Climate Active Carbon Neutral Standard.</i></p> <p>DocuSigned by:  8A4E14267283495...</p> <p>Jason Murphy Managing Director Date 11/01/2022</p>



Australian Government
**Department of Industry, Science,
 Energy and Resources**

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Version September 2021. To be used for FY20/21 reporting onwards.



s22

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

From: s22 [Redacted]@health.gov.au
Sent: Tuesday, 27 September 2022 10:47 PM
To: s47F [Redacted]@industry.gov.au
Cc: s22 [Redacted]@health.gov.au; s22 [Redacted]@Health.gov.au
Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control
[SEC=OFFICIAL]
Hi s47F

Sincere apologies for not sending this to you earlier. Please find below the relevant links for your information:

- WHO World No Tobacco Day site – with links to 2022’s world not tobacco theme – Threat to our environment and past years’ themes - [World No Tobacco Day \(who.int\)](http://www.who.int/world-no-tobacco-day)
- The [WHO FCTC](#), in particular Article 3 (objective) which explicitly refers to the environmental consequences of tobacco consumption and Article 18 (concerning the protection of the environment and the health of persons).
- Australia’s [draft National Tobacco Strategy 2022-2030](#) which includes the following goal: *to improve the health of all Australians by reducing the prevalence of tobacco use and its associated health, social, environmental and economic costs, and the inequalities it causes.*
- Recent feedback received on the draft NTS from the Department of Climate Change, Energy, the Environment and Water (attached).

s22

Kind Regards

s22

Assistant 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

T: s22

Location: Sirius s22
GPO Box 9848, Canberra ACT 2601, Australia

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From: s47F @industry.gov.au

Sent: Tuesday, 27 September 2022 11:44 AM

To: s22 @health.gov.au

Cc: s22 @health.gov.au

Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control
[SEC=OFFICIAL]

Hi s22

Are you able to send through some of the follow-up items you and s22 mentioned in our meeting?

thanks

s47F

OFFICIAL

s22

From: s47F @industry.gov.au

Sent: Wednesday, 14 September 2022 5:45 PM

To: s22 @health.gov.au

Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control

[SEC=OFFICIAL]

Hi s22

Thanks for this.

Agree an officer level would be good (and may negate the need for Exec level one).

One further follow-up was : "has health provided any advice on whether criticism is likely, from whom, and the harm that would arise?"

s22

s47F

OFFICIAL

From: s22 [redacted] <[redacted]@health.gov.au>
Sent: Tuesday, 13 September 2022 11:20 PM
To: s47F [redacted] <[redacted]@industry.gov.au>
Cc: s47F [redacted] <[redacted]@industry.gov.au>; s22 [redacted] <[redacted]@health.gov.au>; s22 [redacted] <[redacted]@health.gov.au>; ROBERTS, Belinda <Belinda.Roberts@health.gov.au>

Subject: FW: British American Tobacco - WHO Framework Convention on Tobacco Control

[SEC=OFFICIAL]

Hi s47F

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.

s22

**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

T: s22

Location: Sirius s22

GPO Box 9848, Canberra ACT 2601, Australia

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----- Forwarded message -----

From: s47F <[redacted]@industry.gov.au>

Date: 11 September 2022 at 10:16:26 AEST

Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

To: s22 [redacted] @health.gov.au>

Cc: s22 [redacted] @Health.gov.au>, s47F [redacted]

[redacted] @industry.gov.au>

Hi s22

s22 [redacted]

[redacted]

s22

Has DoH provided any advice re the intended or actual reach of their guidance? We would appreciate advice on whether this sort of thing falls within the intended scope, and any insights regarding the risk of criticism.

s42 [redacted]

Happy to discuss tomorrow.

regards

s47F [redacted]

OFFICIAL

s22 [redacted]

[redacted]

[redacted]

[redacted]

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s22



OFFICIAL

From: s47F [redacted] [@awe.gov.au](mailto:s47F@awe.gov.au)
 Sent: Tuesday, 9 August 2022 5:27 PM
 To: s47F [redacted] [@industry.gov.au](mailto:s47F@industry.gov.au)>
 Cc: s47F [redacted] [@environment.gov.au](mailto:s47F@environment.gov.au)>
 Subject: RE: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

Hey s47F

s22 has asked that your team reach out to the stakeholder who raised concerns about the certification of British American Tobacco. Are you able to close the loop/let them know that their concern has been received and is being reviewed/will be addressed appropriately etc?

The email came from Rob Cawthorne and is copied below:

To whom this may concern,

While examining other issues with carbon neutral claims under the Climate Active program I noticed that the Climate Active program run by the department of industry has endorsed / certified British American Tobacco for their Climate action. I am not sure if this is a breach of the ban on tobacco advertising, however I still thought this should be brought to your attention and in my opinion is certainly not something that any federal government department should be endorsing.

The program displays the logo page 4 of the certified members list found at - <https://www.climateactive.org.au/buy-climate-active/certified-brands#4>. While BAT do not appear to have promoted the certification outside the organisation albeit the certification itself it could have the effect of saying smoking is not so bad because it causes no impact on our climate. Clicking on the link leads to the members page at <https://www.climateactive.org.au/buy-climate-active/certified-members/british-american-tobacco-australia>, which is designed to allow provide consumers with disclosure surrounding the climate action an organisation has taken.

I would encourage the department of health to request of the department of industry and the climate active program to remove the listing even if they still choose to provide the certification.

Kind regards,



Rob Cawthorne

Managing Director

THE CARBON REDUCTION INSTITUTE

E: s22 | www.noco2.com.au

M: s22 | P: 02 8228 7300 | F: 02 8228 7350

s22

Calculate and negate your personal climate change impact at: secure.noco2.com.au

Help Solve Climate Change. Source from the [Low Carbon Economy Directory](#)

I acknowledge the Traditional Owners and Custodians of the lands on which I live and work and pay respects to Elders past, present, and emerging.



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Let me know if there are any issues!

Sincerely,

s47F

| Director

Product Stewardship Policy | Environment Protection Division

Ngunnawal Country, John Gorton Building, King Edward Terrace, Parkes ACT 2600
Australia

Department of Climate Change, Energy, the Environment and Water

s47F | [@environment.gov.au](mailto:s47F@environment.gov.au)

From: s47F

Sent: Monday, 8 August 2022 8:51 PM

To: s47F | [@industry.gov.au](mailto:s47F@industry.gov.au)>

Cc: s47F | [@environment.gov.au](mailto:s47F@environment.gov.au)>; s47F

| [@environment.gov.au](mailto:s47F@environment.gov.au)>

Subject: British American Tobacco - WHO Framework Convention on Tobacco Control [SEC=OFFICIAL]

Hi s47F

Good to run into you over the weekend – fortuitous timing!

As I mentioned, our counterparts from the Department of Health reached out last week after a stakeholder raised concerns about Climate Active's endorsement of British American Tobacco. s22, Director, Tobacco Control (details below) provided the following summary of considerations for government in dealing with the tobacco industry:

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>

s22 is happy to discuss in more detail if you need additional info or assistance in interpreting the WHO FCTC Article 5.3. His details are T: s22

Also feel free to shout out if you need anything further from us and I'm sure I'll run into you sometime soon!

Sincerely,

s47F

Director

Product Stewardship Policy | Environment Protection Division

Ngunnawal Country, John Gorton Building, King Edward Terrace, Parkes ACT 2600
Australia

Department of Climate Change, Energy, the Environment and Water

s47F @environment.gov.au

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[SEC=OFFICIAL]

[SEC=OFFICIAL]

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s22

From: s22
Sent: Thursday, 3 November 2022 9:47 AM
To: s47F
Cc: s22; s47F
Subject: RE: Termination of BATA's Climate Active certification [SEC=OFFICIAL:Sensitive]

s47F

Thank you for keeping us updated on this matter.

Please reach out again if you require further assistance.

Next year we might discuss with you the possibility of jointly presenting this to other APS agencies at the Tobacco Control IDC as an FCTC Article 5.3 implementation case study.

Kind regards

s22

s22 **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: s22

Location: Sirius Building s22

GPO Box 9848, Canberra ACT 2601, Australia

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From: s47F @industry.gov.au>
Sent: Wednesday, 2 November 2022 5:05 PM
To: s22 @Health.gov.au>
Cc: s22 @health.gov.au>; s22 @health.gov.au>; s47F @industry.gov.au>; s47F @industry.gov.au>
Subject: Termination of BATA's Climate Active certification [SEC=OFFICIAL:Sensitive]

Hi s22

Just updating you on developments.

Last week the Department sent a notice of termination of licence agreement to British American Tobacco Australia Limited.

All Climate Active Carbon Neutral standards have been updated and now state:

[3.4.4 Discretion regarding certification](#)

Meeting the Climate Active Carbon Neutral Standard for Organisation's requirements does not automatically entitle the organisation to certification. The Department reserves the right, at any time and in its absolute discretion, to refuse any application for certification under this Standard. It may also suspend or terminate a licence agreement in

accordance with its terms, including if the holder no longer meets requirements for certification. For the avoidance of doubt, the Department will not be liable for any loss or damage of any kind, howsoever arising, that may be occasioned directly or indirectly as a result of such a refusal, suspension or termination.

Tobacco organisations, products, services, events, buildings and precincts

Tobacco related organisations, products, services, events, buildings and/or precincts will not be certified. This arises from Australia's commitment to implementing Article 5.3 of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), as further enunciated in Australia's Interpretative Declaration in relation to the WHO FCTC, the Guidelines for implementation of Article 5.3 of the WHO FCTC, and the Australian Government Department of Health's Guidance for Public Officials on Interacting with the Tobacco Industry.

https://www.climateactive.org.au/sites/default/files/2022-10/10571RR%20Environment%20-%20Organisation%20Standard%20A4_FA_Web.pdf

Thank you for the advice and support provided.

Kind regards

s47F



s47F

Director – Strategy and Engagement | Climate Active

Department of Climate Change, Energy, the Environment and Water
Ngunnawal Country, 51 Allara St, Canberra ACT 2601 Australia

PS47F [@industry.gov.au](mailto:s47F@industry.gov.au)

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.

OFFICIAL: Sensitive

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