

ISRAEL

2020

**TOBACCO INDUSTRY
INTERFERENCE INDEX**

November 2020

Background and Introduction

The State of Israel was one of the first countries in the world that enacted Tobacco Control laws to combat smoking, including the Restrictions on the Advertising and Marketing of Tobacco Products law and the Prevention of Smoking in Public Places Law, both adopted in 1983. In 2003 Israel signed the international Framework Convention on Tobacco Control (FCTC) and in May 2005 it ratified its membership of the convention. During 2010, the Public Committee to Reduce Smoking and Its Harms, headed by Prof. Gamzo, adopted the recommendations of a professional team that worked within the Ministry of health's 'Healthy Israel 2020' initiative, setting targets for the fight against smoking by 2020, leading to the adoption of Government Decision No. 3247 in May 2011 concerning a national plan to reduce smoking and its harms.

The fight against smoking in Israel began vigorously, went through stronger and weaker periods, but came to a halt toward the end of 2013. The existing regulation has become outmoded and cannot provide a response to the latest strategies adopted by the tobacco and nicotine companies. The rate of smoking among the adult population in 2019 shows no change compared to the beginning of the decade.

This report examines the involvement and forms of influence of the tobacco and nicotine industry on the Israeli government and on tobacco control policy in Israel during the period 2013 through March 2020.

This timeframe can be divided into three distinct periods:

First period

from the end of 2013 through the beginning of 2017: stagnation in regulation of the tobacco and nicotine market; evidence of activities by the tobacco and nicotine companies in the corridors of government without any inspection or mechanisms for transparency.

Second period

2017 and 2018: efforts by the tobacco and nicotine industry to introduce new tobacco and nicotine products, such as IQOS and JUUL, on the one hand; on the other – extensive regulatory activities relating to tobacco control. Among other examples, the latter included the approval of *Amendment No. 7 to the Prohibition of Advertising Law*, including the definition of electronic cigarettes as a smoking product; the prohibition of advertising (excluding the printed press); the obligation to use plain packaging and the ban on display in stores; definition of IQOS as a tobacco product for all purposes, and an order providing for the taxation of IQOS on a similar basis to taxation of cigarettes; bringing taxation on rolling tobacco to the same level as taxation on cigarettes; updating the Prohibition of Smoking in Public Places Order and updating the basket of medicines to include cessation treatments.

This period was characterized by the involvement of numerous bodies in the fight against smoking and by integrated action by Members of Knesset and a broad coalition of tobacco control organizations from the fields of public health, human rights and democracy, public administration, journalists and media professionals. This period also saw the publication of the State Comptroller's report *Actions by the Governmental Authorities to Reduce Smoking and Its harms*.¹ In light of the complex reality during this period, the Association for Progressive Democracy undertook a targeted project addressing the activities of the Knesset and government ministries in accordance with section 5.3 of the FCTC.

This project helped expose and raise awareness of the actions of the tobacco and nicotine industry and contributed to the formulation of preliminary mechanisms for inspecting these activities.

Third period

2019 through March 2020: From January 1, 2019 through March 16, 2020 three national elections were held, together with transitional governments and a temporary Knesset. This reality neutralized any possibility for the Knesset to act, with extensive ramifications for all the stakeholders, including governmental bodies and the tobacco and nicotine industry.

During this period, tobacco and nicotine companies used legal means against government ministries, including:

HCJ 34/19 JUUL Laboratories and Products Ltd. v Minister of Health:

The petition was submitted against the Minister of Health regarding regulations introduced to prohibit the import, marketing, and distribution of electronic cigarettes containing more than 20 mg of nicotine.

HCJ 1532/19 JUUL Laboratories and Products Ltd. v State of Israel - Ministry of Health:

The petition was submitted against the legislative amendment establishing a prohibition against the import, marketing, and distribution of electronic cigarettes containing more than 20 mg of nicotine. The petition was withdrawn by the petitioners before a hearing was held by the Court.

HCJ 4657/19 Forum of Importers and Manufacturers of Vaping Products at the Tel Aviv Chamber of Commerce v State of Israel – Ministry of Health:

The petition was submitted against the amendment imposing prohibitions and restrictions on electronic cigarettes. The petition was deleted after a hearing at the Supreme Court, in light of the recommendation of the justices, who permitted deletion prior to the granting of a ruling.

In addition, from 2012 to date, the courts have been hearing a claim submitted by E-CIG Ltd. regarding the regulation of electronic cigarettes.

TA (Center) 49586-11-15 – E-CIG Ltd. v Ministry of Health:

A claim submitted against the Ministry of Health in the sum of NIS 3 million (approx. \$850K) by a company that in 2012 sought to import and market electronic cigarettes and ancillary products in Israel. The Ministry of Health rejected the application, and a petition was later submitted to the High Court of Justice (HCJ 6665/12 E-CIG Ltd. v Ministry of Health). In 2014 the Court found that the Ministry of Health had exceeded its authority by prohibiting the company from acting as it requested, and accordingly in 2015 the suit was submitted. The suit is currently pending at Tel Aviv District Court.

Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

There are no indications in the public record of the existence of committees or official meetings in government ministries to which representatives of tobacco and smoking companies are invited.

In 2018, during the Knesset Economic Affairs Committee's discussions in 2018 of the draft bill on *Restriction of Advertising and Marketing of Tobacco products Law (Amendment No. 7), 5779-2019*, Philip Morris's legal representative proposed the exclusion of e-mail from the blanket ban on advertising.² The proposal was accepted and approved by the members of Knesset, provided the email recipients are 21 and older, and gave their prior written consent.³

Moreover, the cigar importers proposal to exclude cigars from plain packaging and emissions reporting requirements was also accepted.⁴ Tobacco companies requested a year's grace period in order to prepare for the Plain Packaging and enlarged text warnings requirements.⁵ Their request was accepted and the various sections of the law dealing with Plain packaging, enlarged text warnings and store display bans came into force a year after the date of the law's entry into force.⁶

2. INDUSTRY CSR ACTIVITIES

No such incidents have been identified for the 2017-2019 period by the government, its agencies or officials.

3. BENEFITS TO THE INDUSTRY

The Health Ministry's initial treatment of heated tobacco products, specifically Philip Morris's IQOS,⁷ and their exclusion from *the Law Limiting the Advertising and Marketing of Tobacco Products -1983*, included preferential treatment of one smoking product over others, as noted in petition HCJ 2269/17 submitted by the Dubek Co. to the Supreme Court against the Minister of Health.⁸

Following an order on the taxation of rolling tobacco signed in February 2019, which limits the size of the packs to 30-50 grams,⁹ an application came through the Federation of Israeli Chambers of Commerce's cigarette and rolling tobacco importers forum, for an extension of the deadline for using up inventory in the original packaging from February 2019 to January 2020, until the enactment of the section in the law prohibiting advertising that requires Plain packaging.¹⁰ The extension of deadline for using up inventories was approved.¹¹

4. UNNECESSARY INTERACTION

Throughout 2018, as part of the regulatory process relating to e-cigarettes, JUUL publicized details of actions it took to prevent the sale of its products to minors in a range of media channels¹² and even offered to help the Ministry of Health with this issue.¹³ The Ministry of Health declined these offers.

5. TRANSPARENCY

In January 2017, following an investigation that revealed the arrangement of meetings with the Minister of Health and senior Ministry officials in exchange for payments,¹⁴ a new chapter dedicated to reporting meetings (at this stage, only of Health Ministry representatives) with tobacco and smoking industry representatives was added to the *Minister of Health Report on Smoking in Israel, 2016* in its revised version

published in February 2018.¹⁵ At the same time, in preparation for a decision on the taxation of heated tobacco products, the economist Arthur Laffer arrived in Israel on behalf of Philip Morris in May 2017, and met with the Director General of the Ministry of Finance. The very existence of this meeting was only revealed in retrospect, in the media.¹⁶

The requirement to report meeting with the tobacco industry limited only to the Ministry of Health and does not apply to the rest of the government agencies. There is also no registry of tobacco industry entities, their affiliate organizations and representatives such as lawyers acting on their behalf.

6. CONFLICT OF INTEREST

No such incidents were identified for the 2017-2019 period. However, there is the phenomenon of parliamentary advisers and assistants transitioning to positions in tobacco companies, sometimes without a “cooling off period” after holding a position in government. Nili Brosh, a senior adviser to the Interior Minister, was appointed Corporate Relations Manager at Philip Morris in December 2017, joining Maayan Sarig, a spokeswoman for the Minister of Transportation, who was appointed Director of Communications at Philip Morris, and Adv. Coral Aviram, formerly an advisor to the Minister of Labor and Welfare, who was appointed Manager of Regulatory Affairs. In June 2018, Adv. Ran Shitrit, former Chief of Staff for Benjamin Netanyahu as Communications Minister, was appointed VP of Regulation at JUUL.¹⁷

Keren Barak, a strategic consultant and lobbyist for large firms in the Israeli market in recent years, who, among others, represented JUUL, was elected in April 2019 as a Knesset member for the Likud party, and has served as a Knesset member for the last 3 terms (21st, 22nd and 23rd Knesset).¹⁸

7. PREVENTIVE MEASURES

There are no indications in the public record that a Knesset member is restricted from receiving a draft bill from tobacco and smoking companies.

In November 2018, the Ministry of Health published the “*Rules for commercial-related engagements by health institutions: Director General’s circular 11/2018*”,¹⁹ which regulates the issue in general, without specific reference to tobacco and smoking companies.

Under the *National Health Insurance Law*²⁰ there is a requirement to report donations in the healthcare field. Section 40A of the *National Health Insurance Law*, which deals with the obligation to report contributions in the field, requires every “donor” as defined in the law, who made a contribution in any amount to a healthcare organization or who contributed a cumulative amount of over NIS 2,500 per year to a physician, pharmacist or researcher in the medical or health field, to report that contribution. In addition, all organizations in the healthcare field are required to report donations of any amount, and any physician, pharmacist or researcher in the medical or health field who receives a donation over NIS 2,500, is also required to report it. These two procedures only apply to the healthcare system. So far, there are no reports of providing and/or accepting donations from the tobacco and nicotine industry.

Recommendations

- **Reporting and transparency** - The requirement to report meetings with the tobacco and nicotine industry currently limited to the Ministry of Health must be extended to apply to the whole government.
- **Tobacco and Nicotine industry Registrar** - A registry of tobacco and nicotine industry entities, their affiliate organizations and representatives must be established.
- **Cooling-off period** - Since there are instances of former government officials moving to the tobacco and nicotine industry, a policy must be put in place, which provides a cooling period of at least 3 years.
- **Commercial engagements** - Rules for commercial-related engagement by health institutions should be extended to apply to the whole government to prevent the tobacco and nicotine industry from approaching the non-health sector.

Acknowledgements

Thanks to Shabi Gatenio from The Association for Progressive Democracy and Elad Godinger from Public Policy Unit of the Israeli Medical Association for their input to the report. We also thank Mary Assunta and Yodhim Dela Rosa from the Global Center for Good Governance in Tobacco Control, a partner of STOP, for their advice in the preparation of this index.

Author

Shira Kislev, Smoke Free Israel - The National Initiative to Eradicate Smoking.

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
<p>1. The government¹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry² in setting or implementing public health policies in relation to tobacco control³ (Rec 3.1)</p> <p>During 2016, prior to the introduction of IQOS into the Israeli market, there are indications of meetings between senior health officials in the Ministry of Health and representatives of Philip Morris,²¹ leading to correspondence between the Ministry of Health and the Israel Tax Authority, which stated that <i>the Advertising and Marketing Restricting of Tobacco products Law - 1983</i> does not apply to heated tobacco products.²²</p> <p>In March 2017, petition 2475/17 was submitted to the High Court of Justice by the Association for Progressive Democracy against the Ministry of Health.²³ In the petition hearings, the Ministry of Health presented its position, whereby heated tobacco is a tobacco product for all intents and purposes and the regulation of tobacco and smoking applies to it.</p> <p>During the Knesset Economics Affairs Committee hearings held during 2018 regarding the draft bill on <i>Restriction of Advertising and Marketing of Tobacco products Law (Amendment No. 7), 5779-2019</i>, the chairman of the Committee and other Knesset members asked representatives of the Ministry of Health to meet with representatives of the tobacco companies and hear their arguments.²⁴ The Ministry of Health acceded to the request and held one meeting with representatives of tobacco and smoking products companies, where, for example, the cigar importers forum requested an exemption for cigars from Plain packaging requirements, and they were asked to forward supplementary supporting materials for this request.²⁵</p> <p>In the Knesset Economic Affairs Committee's discussions of the bill prohibiting advertising, it was decided to exclude the cigars from Plain packing and emissions reporting requirements.²⁶</p>						X
<p>2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)</p> <p>During the Knesset Economic Affairs Committee's discussions in 2018 of the draft bill on <i>Restriction of Advertising and Marketing of Tobacco products Law (Amendment No. 7), 5779-2019</i>, Philip Morris's legal representative proposed the exclusion of e-mail from the blanket ban on advertising.²⁷ The proposal was accepted and approved by the members of Knesset, provided the email recipients are 21 and older, and gave their prior written consent.²⁸</p> <p>The cigar importers proposal to exclude cigars from Plain packaging and emissions reporting requirements was also accepted.²⁹ Tobacco companies requested a year's grace period in order to prepare for the Plain Packaging and enlarged text warnings requirements.³⁰ Their request was accepted and the various sections of the law dealing with Plain packaging, enlarged text warnings and store display bans came into force a year after the date of the law's entry into force.³¹</p>					X	
<p>3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)</p> <p>There are no indications in the public record of the existence of committees or official meetings in <u>government ministries</u> to which representatives of tobacco and smoking companies are invited.</p> <p>Following a call from the Association for Progressive Democracy to the chairpersons of the Knesset committees to ban representatives of tobacco companies from committee hearings, a decision was made that, as of March 2017, the Committee on Drug Abuse will prohibit entry of lobbyists and representatives of tobacco and smoking companies to it hearings. And as of March 2018, the Labor, Welfare and Health Committee will also ban lobbyists from tobacco and smoking companies at it hearings.³² However, in a hearing of this Committee on the draft <i>Pharmacists Regulations (Conditions for Manufacturing and Marketing of Electronic Cigarette, Cartridge and Fillers), 2018</i>, representatives of 5 electronic cigarette companies were present.³³</p>					X	

1 The term "government" refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority.

2 The term, "tobacco industry" includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

3 "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour.

	0	1	2	3	4	5
...3... Some Knesset committees allow the participation of representatives of tobacco and smoking companies and/or lobbyists on their behalf, for example, the Economic Affairs Committee, in its deliberations on the <i>Restriction of Advertising and Marketing of Tobacco products Law (Amendment No. 7), 5779-2019</i> , held during 2018. During eight committee hearings on the bill, representatives of Philip Morris, Dubek, JUUL, electronic cigarette manufacturers and importers, and even Michael Reerink, VP of the JTI Corporation, who visited the Knesset, among others, attended and were granted permission to speak. Following an agreement in advance with the chairperson of the Economic Affairs Committee, the director of the Association for Progressive Democracy was allowed to speak after each representative of the tobacco industry, citing Article 5.3 of the Convention. ³⁴						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (Rec 4.9 & 8.3)		X				
Israel did not attend or send representatives on its behalf to COP meetings during the survey period (2017-2019). The last time Israel sent a delegation from the Ministry of Health to COP was in 2016. ³⁵						
INDICATOR 2: Industry CSR activities						
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2) B. The government (its agencies and officials) receives contributions ⁴ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)		X				
No such incidents have been identified for the 2017-2019 period by the government, its agencies or officials.						
INDICATOR 3: Benefits to the Tobacco Industry						
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)					X	
In May 2011, Government Resolution 3247, " <i>National Plan to Reduce Smoking and its Damages</i> ", ³⁶ was approved. In accordance with the resolution, a government bill on <i>Limiting Tobacco Advertising and Marketing (Amendment No. 7), 2012</i> , was submitted and discussed in 2012. ³⁷ The Ministry of Health withdrew this bill in 2013 after interference and disruptions by tobacco companies. ³⁸ Following a delay of five years, a bill on the " <i>Prohibition of Advertising and Restriction of Marketing of Tobacco and Smoking Products, 2018</i> " was proposed and debated as a private bill, in a softened version that included an exclusion of the print press from the blanket advertising ban, and did not include graphic warnings on packaging or the definition of authorities and regulatory and enforcement mechanisms for the law. ³⁹						
Following an order on the taxation of rolling tobacco signed in February 2019, which limits the size of the packs to 30-50 grams, ⁴⁰ an application came through the Federation of Israeli Chambers of Commerce's cigarette and rolling tobacco importers forum, for an extension of the deadline for using up inventory in the original packaging from February 2019 to January 2020, until the enactment of the section in the law prohibiting advertising that requires Plain packaging. ⁴¹ The extension of deadline for using up inventories was approved. ⁴²						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)				X		
The Health Ministry's initial treatment of heated tobacco products, specifically Philip Morris's IQOS, ⁴³ and their exclusion from the <i>Law Limiting the Advertising and Marketing of Tobacco Products -1983</i> , included preferential treatment of one smoking product over others, as noted in petition HCJ 2269/17 submitted by the Dubek Co. to the Supreme Court against the Minister of Health. ⁴⁴ In response to petition 2475/17, submitted to the Supreme Court by the Association for Progressive Democracy against the Ministry of Health, ⁴⁵ the Ministry of Health presented its position that heated tobacco products are tobacco products for all intents and purposes, and that tobacco and smoking regulation applies to them. The subsequent petition 8929/17 submitted by the Association for Progressive Democracy and the Smoke Free Israel Initiative against the Minister of Finance ⁴⁶ led to the taxation of IQOS HEETS at the same tax rate as cigarettes. ⁴⁷						

4 Political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions.

	0	1	2	3	4	5
<p>...7...</p> <p>In May 2013, as part of <i>Amendment 13 to the Customs Tariffs, Exemptions and Sales Tax on Goods Order</i>, a one-stage tax increase was imposed on cigarettes, while tax rates on rolling tobacco were set to increase in two stages. In practice, only the first stage was enacted.⁴⁸ This created a price differences in favor of rolling tobacco (35% tax on rolling tobacco versus 80% tax on cigarettes).⁴⁹ This constituted a benefit to manufacturers and marketers of rolling tobacco, primarily the Israeli tobacco company Dubek. In June 2018, petition 4862/18 was filed with the Supreme Court against the Minister of Finance, by the Smoke Free Israel Initiative, joined by the Israel Cancer Association.⁵⁰ The Supreme Court justices ruled unanimously that the Minister of Finance was obliged to raise the tax on rolling tobacco so as to equal the tax on cigarettes. On February 21, 2019, a taxation order unifying the rolling tobacco tax and cigarette tax rates was issued.⁵¹</p> <p>Amendment 7 to the law limiting advertising and marketing of tobacco products included a blanket ban on advertising, with the exception of the print press - a demand from the Minister of Health as a condition of Ministry of Health support for a private bill.⁵² The law stipulates that an anti-smoking advertisement will appear alongside any permitted advertisement for tobacco and smoking products in a newspaper. The anti-smoking ad will carry Ministry of Health wording and take up the same area as the original tobacco product advertisement. The cost of advertising space for this anti-smoking message shall not borne by the Ministry of Health.⁵³ The very exclusion of the printed press from the blanket advertising ban is a definite benefit to tobacco and smoking companies. Furthermore, the Ministry of Health's decision to announce in advance the rotating month's anti-smoking content, allows tobacco and smoking companies to adjust their advertisement accordingly.⁵⁴ The Supreme Court petition 2951/19 filed by the Smoke Free Israel initiative against the Knesset, the Israeli government and the Ministry of Health, demanded that the printed press exclusion from the blanket ban be rejected by the court.⁵⁵</p> <p>As part of <i>the Amendment to the Sales Tax Order (Exemption) (Amendment No.), 2012</i>, the permissible duty free purchase quantity for one person was changed. As of February 2012, a person over the age of 18 is allowed to purchase up to one packet (200 cigarettes), or the equivalent of 250 grams of rolling tobacco at the duty free.⁵⁶</p>						
INDICATOR 4: Forms of Unnecessary Interaction						
<p>8. Top level government officials (such as President/ Prime Minister or Minister⁵) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)</p>	X					
There is no evidence of such activities during 2017-2019.						
<p>9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)</p>	X					
Throughout 2018, as part of the regulatory process relating to e-cigarettes, JUUL publicized details of actions it took to prevent the sale of its products to minors in a range of media channels ⁵⁷ and even offered to help the Ministry of Health with this issue. ⁵⁸ The Ministry of Health declined these offers.						
<p>10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1)</p> <p><i>NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i></p>	X					
There is no evidence of such activities during 2017-2019.						

5 Includes immediate members of the families of the high-level officials.

	0	1	2	3	4	5
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)					X	
<p>In January 2017, following an investigation that revealed the arrangement of meetings with the Minister of Health and senior Ministry officials in exchange for payments,⁵⁹ a new chapter dedicated to reporting meetings (<u>at this stage, only of Health Ministry representatives</u>) with tobacco and smoking industry representatives was added to the <i>Minister of Health Report on Smoking in Israel, 2016</i> in its revised version published in February 2018.⁶⁰ At the same time, in preparation for a decision on the taxation of heated tobacco products, the economist Arthur Laffer arrived in Israel on behalf of Philip Morris in May 2017, and met with the Director General of the Ministry of Finance. The very existence of this meeting was only revealed in retrospect, in the media.⁶¹</p> <p>In the Minister of Health Report on Smoking in Israel, 2016, two meetings were reported:</p> <p>1. On March 30, 2016, the Head of Public Health Services met with representatives of Philip Morris. The meeting took place at the request of the company's representative, Attorney Ishai Wureit, in order to introduce a new product designed to reduce smoking damage among smokers, and which they claimed has the potential to reduce risk. The meeting was attended by a scientist from Philip Morris International. The Ministry agreed to the meeting because of the desire to learn about the new product, which, according to company representatives, was developed based on years of scientific research. The meeting was also attended by Dr. Moira Gilchrist, Head of Scientific and Public Communications, Philip Morris International; Adv. Ishai Wureit, Director of Corporate Affairs at Philip Morris (Israel); Iris Epstein, Reduced Risk Product Manager, Philip Morris (Israel) and Erez Gil-Har, Co-CEO of Policy.⁶² During the meeting, Dr. Gilchrist presented data on the new product, together with the research that is the basis for the Company's claims that the product has the potential to reduce risk. The Philip Morris representatives made it clear that they intend to market the product as "reduced risk," subject to approval as a reduced risk product by leading global regulatory bodies.</p> <p>2. Another meeting on the new product was held on December 11, 2016, attended by Minister of Health MK Rabbi Yaakov Litzman and Deputy Director-General of the Ministry, Prof. Itamar Grotto. Participants on behalf of Philip Morris Israel included Daniel Alpen, Managing Director, Adv. Ishai Wureit, Director of Corporate Affairs and Adv. Coral Aviram, Manager of Regulatory Affairs, and Erez Gil-Har, Co-CEO of Policy. The new product was introduced at the meeting, and there was no discussion of regulation or taxation of the product. The Company's representatives did not make any requests regarding these matters. After presenting the product, the representatives argued that the product was "reduced risk," and furthermore stated that they intended to start marketing the product in Israel, following its entry into the market in several countries around the world, without providing a date for the launch of the marketing campaign.⁶³</p> <p>The 2017 Minister of Health Report on Smoking in Israel stated that there were no meetings with tobacco companies during 2017.⁶⁴</p> <p>The 2018 Minister of Health Report on Smoking in Israel reported two meetings,⁶⁵ one with the Federation of Israeli Chambers of Commerce and their representatives, following a request by members of the Knesset Economic Affairs Committee and in the context of legislative procedures for the <i>Restriction of Advertising and Marketing of Tobacco products Law (Amendment No. 7), 5779-2019</i>. The second meeting was with JUUL representatives, as part of a hearing on their case.</p> <p>The requirement to report meeting with the tobacco industry limited only to the Ministry of Health and does not apply to the rest of the government agencies.</p>						
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)					X	
<p>The <i>Knesset Law (Amendment 25), 2008, Additional Chapter 12: Lobbyists</i>, was enacted in Israel in 2008,⁶⁶ and includes the requirement that lobbyists and their clients register, that they wear an orange identification tag in the Knesset building, as well as prohibitions against providing favors and misinformation. The law applies only to Knesset members and their meetings with lobbyists within the Knesset's premises, and does not apply to government ministers or to public officials.</p> <p>There is no registry of tobacco industry entities, their affiliate organizations and representatives such as lawyers acting on their behalf.</p>						

	0	1	2	3	4	5
INDICATOR 6: Conflict of Interest						
13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)		X				
<i>Law on Financing of Political Parties, 1973, Section 8</i> ⁶⁷ prohibits receiving contributions from corporations in general, not necessarily from tobacco and smoking companies.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)			X			
No such incidents were identified for the 2017-2019 period.						
However, there is the phenomenon of parliamentary advisers and assistants transitioning to positions in tobacco companies, sometimes without a "cooling off period" after holding a position in government. Nili Brosh, a senior adviser to the Interior Minister, was appointed Corporate Relations Manager at Philip Morris in December 2017, joining Maayan Sarig, a spokeswoman for the Minister of Transportation, who was appointed Director of Communications at Philip Morris, and Adv. Coral Aviram, formerly an advisor to the Minister of Labor and Welfare, who was appointed Manager of Regulatory Affairs. ⁶⁸						
In June 2018, Adv. Ran Shitrit, former Chief of Staff for Benjamin Netanyahu as Communications Minister, was appointed VP of Regulation at JUUL. ⁶⁹						
15. Current government officials and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)				X		
Keren Barak, a strategic consultant and lobbyist for large firms in the Israeli market in recent years, who, among others, represented JUUL, was elected in April 2019 as a Knesset member for the Likud party, and has served as a Knesset member for the last 3 terms (21st, 22nd and 23rd Knesset). ⁷⁰						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)			X			
Beginning with the 2016 Minister of Health Report on Smoking in Israel, in its revised version published in February 2018, the Report includes Chapter 10: "Reporting on meetings with tobacco companies," detailing meetings (<u>at this stage, only of Health Ministry representatives</u>) held with tobacco and smoking companies. ⁷¹						
17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2)				X		
In January 2017, following an investigation that revealed the arrangement of meetings with the Minister of Health and senior Ministry officials in exchange for a fee, ⁷² the Director General of the Ministry appointed an external review team to formulate recommendations and procedures for holding meetings with parties in the business sector in general, and tobacco companies in particular. ⁷³ To the best of our knowledge, the review team's conclusions have not yet been published.						
In August 2018, the Association for Progressive Democracy contacted the Directors General at the ministries of Health, Finance, and Economy, calling on them to formulate policies and publish clear guidelines on meetings with tobacco companies and their representatives, in accordance with Section 5.3 of Framework Convention on Tobacco Control (FCTC). Beginning in August 2018, the Director General of the Ministry of Health sent out an order to comply with the FCTC Convention and minimize meetings with tobacco companies as much as possible. ⁷⁴ In March 2019, the Ministry of Finance published on its website guidelines on holding meetings with representatives of tobacco companies, their lobbyists or representatives. ⁷⁵ According to the new rules, such meetings will be held "for essential reasons only" and only subject to special approval by the head of the division and unit and after a notification of the Director General of the ministry. ⁷⁶ The Ministry of Economic Affairs responded that requests for meetings by tobacco companies would be submitted for examination by the Ministry's legal team, which will provide guidelines on acting in accordance with section 5.3 of the Framework Convention. ⁷⁷						

	0	1	2	3	4	5
<p>...17...</p> <p>In February 2019, the Association for Progressive Democracy contacted the Knesset Attorney General to request that Knesset members report on their meetings with representatives of tobacco and smoking companies.⁷⁸ The Knesset Attorney General's reply states that international treaties, such as the Framework Convention (FCTC), do not have the power over Knesset members' parliamentary conduct and cannot prevent meetings and/or require publicizing such meetings. This would require primary legislation, or at least a clear provision in the Knesset's bylaws or in the ethics rules for Knesset members. At the same time, the Knesset Attorney General agreed to "... draw the attention of the Knesset members to the contents of the FCTC, in order to emphasize the sensitivity of meetings with representatives of tobacco companies ..."⁷⁹</p>						
<p>18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)</p>			X			
<p>Under the Prohibition of <i>Advertising and Restriction of Marketing of Tobacco and Smoking Products Law, 5743-1983</i>,⁸⁰ tobacco and smoking companies are required to report annually to the Ministry of Health:</p> <ol style="list-style-type: none"> Expenses on permissible advertising, including details and costs by newspaper, publication date, ad size, and counter ads (as of June 1, 2020). Prior to June 2020, they were required to report expenses for advertising, promotions and sponsorships. The contents of smoking products marketed in Israel: components, emissions and, if available, toxicological information for each product separately (as of June 1, 2020). <p><i>The National Health Insurance Law, 1984</i>, requires the reporting of every donation over NIS 2,500 from each donor to the health system.⁸¹ Reports from 2011 onwards do not show any donations from tobacco and smoking companies.⁸²</p>						
<p>19. The government has a program / system/ plan to consistently⁶ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)</p>						X
<p>There is no information available on government websites regarding action related to Article 5.3, The information provided to the COP is outdated, from 2012.</p>						
<p>20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)</p>			X			
<p>There are no indications in the public record that a Knesset member is restricted from receiving a draft bill from tobacco and smoking companies.</p> <p>In November 2018, the Ministry of Health published the "<i>Rules for commercial-related engagements by health institutions: Director General's circular 11/2018</i>",⁸³ which regulates the issue in general, without specific reference to tobacco and smoking companies.</p> <p>Under the <i>National Health Insurance Law</i>⁸⁴ there is a requirement to report donations in the healthcare field. Section 40A of the National Health Insurance Law, which deals with the obligation to report contributions in the field, requires every "donor" as defined in the law, who made a contribution in any amount to a healthcare organization or who contributed a cumulative amount of over NIS 2,500 per year to a physician, pharmacist or researcher in the medical or health field, to report that contribution. In addition, all organizations in the healthcare field are required to report donations of any amount, and any physician, pharmacist or researcher in the medical or health field who receives a donation over NIS 2,500, is also required to report it. These two procedures only apply to the healthcare system. So far, there are no reports of providing and/or accepting donations from the tobacco industry.</p>						
TOTAL						48

6 For purposes of this question, "consistently" means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported

1. State Comptroller's Report 68A – Actions by the Authorities to Reduce Smoking and Its harms – Ministry of Health, May 2018.
2. Knesset Economic Affairs Committee, meeting protocol 863, November 21, 2018, pp. 50-51.
3. Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, pp. 101-105.
4. Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, pp. 40-41, 54-55, 56-58, 80-81.
5. Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, pp. 94-95.
6. [Prohibition of Advertising and Restricting of Marketing of Tobacco and Smoking Products Law, 5743-1983.](#)
7. Itamar Grotto, Letter to Iris Saadon, Tax Authority: "Philip Morris's alternative smoking product," May 15, 2016.
8. HCJ 2269/17 Dubek v. Minister of Health, March 2017.
9. Sales Tax Regulations (Goods) (Amendment), 2019. 21 February 2019.
10. Federation of Israeli Chambers of Commerce's cigarette and rolling tobacco importers forum, position paper: "Size of Plain Packaging for Rolling Tobacco," February 2019.
11. Tobacco Regulations (Amendment) (Amendment), 2019, June 19, 2019.
12. Rotem Elizera, ["JUUL's Response to the Order Forbidding Sales of Reduced Nicotine Capsules"](#), YNET, [September 2, 2018](#).
13. [Minutes of November 14, 2018 meeting with representatives of the Federation of Israeli Chambers of Commerce](#), regarding draft bill on advertising and marketing of tobacco products (Amendment no. 7), 2018.
14. Chaim Rivlin, ["Smokescreen: The Influence Peddler Who Will Connect to Minister Litzman,"](#) Channel 12 News, January 9, 2017.
15. [Minister of Health Report on Smoking in Israel, 2016, revised version, February 2018.](#) Chapter 10: "Report on Meetings with Tobacco Companies in 2016," p. 131; [Minister of Health Report on Smoking in Israel 2017](#), May 2018. Chapter 10: "Report on Meetings with Tobacco Companies in 2017," p. 134; [Minister of Health Report on Smoking in Israel, 2018](#), May 2019. Chapter 10: "Report on Meetings with Tobacco Companies in 2018," p. 104.
16. Ronny Linder, ["Economic Guru Visiting Israel and Meeting with Government Officials: Lobbyist for the Tobacco Giant Philip Morris,"](#) *TheMarker*, May 11, 2017.
17. Ronny Linder, ["Reinforcement Player for Addictive Electronic Cigarette: Netanyahu's Former Chief of Staff,"](#) *TheMarker*, June 20, 2018.
18. Hagai Amit, ["Lobbyist for Celcom, International Bank, Insurance and Oil Companies Visits the Knesset,"](#) *TheMarker*, February 6, 2019.
19. Rules for commercial-related engagements by health institutions: Director General's Circular, November 2018.
20. [National Health Insurance Law, 1994](#), Section 40a.
21. [Minister of Health Report on Smoking in Israel 2016](#), Feb. 2018, p. 131.
22. Itamar Grotto, Letter to Iris Saadon, Tax Authority: "Philip Morris's alternative smoking product," May 15, 2016.
23. HCJ 2475/17 Association for Progressive Democracy v. Minister of Health, March 2017.
24. Knesset Economic Affairs Committee, meeting protocol 827, October 15, 2018, pp. 4-5.
25. [Minutes of November 14, 2018 meeting with representatives of the Federation of Israeli Chambers of Commerce](#), regarding draft bill on advertising and marketing of tobacco products (Amendment 7), 2018.
26. Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, pp. 40-41, 54-55, 56-58, 80-81.
27. Knesset Economic Affairs Committee, meeting protocol 863, November 21, 2018, pp. 50-51.
28. Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, pp. 101-105.
29. Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, pp. 40-41, 54-55, 56-58, 80-81.
30. Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, pp. 94-95.
31. [Prohibition of Advertising and Restricting of Marketing of Tobacco and Smoking Products Law, 5743-1983.](#)
32. Email response from Dor Ben-Dor, Parliamentary advisor to MK Tamar Zandberg, March 19, 2017; Ronny Linder, ["Doors at the Knesset Starting to Close for Tobacco Company Lobbyists,"](#) *TheMarker*, June 6, 2018.
33. Knesset Labor, Welfare and Health Committee, meeting protocol 897, November 27, 2018, Pharmacists Regulations.

34. Knesset Economic Affairs Committee, meeting protocol 731, April 30, 2018, 9:30 am; Knesset Economic Affairs Committee, meeting protocol 777, June 12, 2018, 9:30 am; Knesset Economic Affairs Committee, meeting protocol 790, June 21, 2018, 9:30 am; Knesset Economic Affairs Committee, meeting protocol 827, October 15, 2018, 9:30 am; Knesset Economic Affairs Committee, meeting protocol 850, November 12, 2018, 10:00 am; Knesset Economic Affairs Committee, meeting protocol 863, November 21, 2018, 9:30 am; Knesset Economic Affairs Committee, meeting protocol 892, December 18, 2018, 12:00 noon; Knesset Economic Affairs Committee, meeting protocol 899, December 25, 2018, 11:50 am.
35. Ministry of Health Press Release: ["Israel will Participate for the First Time in Many Years in a Meeting of Signatories to the Framework Convention of Tobacco Control,"](#) November 2016.
36. [Government Resolution 3247: "National Plan to Reduce Smoking and Its Damages,"](#) May 29, 2011.
37. [Draft Bill Restricting the Advertising and Marketing of Tobacco Products \(Amendment No. 7\), 2012.](#) First reading version.
38. Reuters investigations, [The Philip Morris Files, Part 1: Treaty Blitz.](#) July 2017.
39. [Draft Bill Restricting the Advertising and Marketing of Tobacco Products \(Amendment No. 7\), 2018.](#) First reading version.
40. Sales Tax Regulations (Goods) (Amendment), 2019. 21 February 2019.
41. Federation of Israeli Chambers of Commerce's cigarette and rolling tobacco importers forum, position paper: "Size of Plain Packaging for Rolling Tobacco," February 2019.
42. Tobacco Regulations (Amendment) (Amendment), 2019, June 19, 2019.
43. Itamar Grotto, Letter to Iris Saadon, Tax Authority: "Philip Morris's alternative smoking product," May 15, 2016.
44. HCJ 2269/17 Dubek v. Minister of Health, March 2017.
45. HCJ 2475/17 Association for Progressive Democracy v. Minister of Health, March 2017.
46. HCJ 8929/17 Association for Progressive Democracy v. Minister of Finance, November 2017.
47. Customs Tariffs, Exemptions and Sales Tax on Goods Order (Amendment No.), 2018, January 15, 2018.
48. [Customs Tariffs, Exemptions and Sales Tax on Goods Order \(Amendment No. 13\), 2013,](#) May 8, 2013.
49. Minister of Health Report on Smoking in Israel 2016, 2018, p. 113.
50. HCJ 4862/18 Smoke Free Israel Initiative v. Minister of Finance, June 2018.
51. Sales Tax Regulations (Goods) (Amendment), 2019. 21 February 2019.
52. Resolution of the Ministerial Committee on Legislation, December 24, 2017; Affidavit by former MK Yehuda Glick, November 24, 2019.
53. [Draft Bill Restricting the Advertising and Marketing of Tobacco Products \(Amendment No. 7\), 2018. First reading version;](#) [Law Prohibiting the Advertising and Limiting the Marketing of Tobacco and Smoking Products,](#) 1983.
54. [Director General of the Ministry of Health Directive: "Determining the Advertisement on the Harms of Smoking That must be Published by a Newspaper,"](#) June 2, 2019; List of 12 Counter Advertisements, by publication date, Ministry of Health website (access date May 23, 2020).
55. HCJ 2951/19 Smoke Free Israel Initiative v. Knesset of Israel, April 2019.
56. [Sales Tax Exemptions Regulations \(Amendment no.\), 2012,](#) February 2012.
57. Rotem Elizera, ["JUUL's Response to the Order Forbidding Sales of Reduced Nicotine Capsules,"](#) YNET, [September 2, 2018.](#)
58. [Minutes of November 14, 2018 meeting with representatives of the Federation of Israeli Chambers of Commerce,](#) regarding draft bill on advertising and marketing of tobacco products (Amendment no. 7), 2018.
59. Chaim Rivlin, ["Smokescreen: The Influence Peddler Who Will Connect to Minister Litzman,"](#) Channel 12 News, January 9, 2017.
60. [Minister of Health Report on Smoking in Israel, 2016, revised version, February 2018.](#) Chapter 10: "Report on Meetings with Tobacco Companies in 2016," p. 131; [Minister of Health Report on Smoking in Israel 2017,](#) May 2018. Chapter 10: "Report on Meetings with Tobacco Companies in 2017," p. 134; [Minister of Health Report on Smoking in Israel, 2018,](#) May 2019. Chapter 10: "Report on Meetings with Tobacco Companies in 2018," p. 104.
61. Ronny Linder, ["Economic Guru Visiting Israel and Meeting with Government Officials: Lobbyist for the Tobacco Giant Philip Morris,"](#) *TheMarker*, May 11, 2017.

62. [Policy – Government Relations & Corporate Affairs.](#)
63. [Minister of Health Report on Smoking in Israel, 2016, revised version, February 2018.](#) Chapter 10: “Report on Meetings with Tobacco Companies in 2016,” p. 131.
64. [Minister of Health Report on Smoking in Israel 2017,](#) May 2018. Chapter 10: “Report on Meetings with Tobacco Companies in 2017,” p. 134.
65. [Minister of Health Report on Smoking in Israel, 2018,](#) May 2019. Chapter 10: “Report on Meetings with Tobacco Companies in 2018,” p. 104.
66. [Knesset Law \(Amendment 25\), 2008,](#) Additional Chapter 12: Lobbyists.
67. [Financing of Political Parties Law, 1973.](#) Section 8: Limiting Income.
68. Ronny Linder, [“Philip Morris Hires Minister’s Advisor for Third time,”](#) *TheMarker*, December 12, 2017.
69. Ronny Linder, [“Reinforcement Player for Addictive Electronic Cigarette: Netanyahu’s Former Chief of Staff,”](#) *TheMarker*, June 20, 2018.
70. Hagai Amit, [“Lobbyist for Celcom, International Bank, Insurance and Oil Companies Visits the Knesset,”](#) *TheMarker*, February 6, 2019.
71. [Minister of Health Report on Smoking in Israel, 2016, revised version, February 2018.](#) Chapter 10: “Report on Meetings with Tobacco Companies in 2016,” p. 131; Minister of Health Report on Smoking in Israel 2017, May 2018. Chapter 10: “Report on Meetings with Tobacco Companies in 2017,” p. 134; Minister of Health Report on Smoking in Israel, 2018, May 2019. Chapter 10: “Report on Meetings with Tobacco Companies in 2018,” p. 104.
72. Chaim Rivlin, [“Smokescreen: The Influence Peddler Who Will Connect to Minister Litzman,”](#) Channel 12 News, January 9, 2017.
73. Moshe Bar Siman Tov, Director General, letter to Ministry of Health staff regarding “Smokescreen” investigation, January 16, 2017.
74. Adv. Michal Goldberg, letter to Shabi Gatano: “Meetings with Tobacco Industry Representatives, October 3, 2018.
75. [Regulations and Guidelines: Meetings with Tobacco Companies,](#) Ministry of Finance website, March 24, 2019.
76. Ronny Linder, [“An End to Tobacco Companies and Lobbyists Meetings with Government Representatives,”](#) *TheMarker*, March 17, 2019.
77. Shai Rinski, Letter to Shabi Gatano, Instructions regarding the prohibition of meetings with tobacco companies and lobbyists on their behalf, July 29, 2019.
78. Shabi Gatano, Letter to Adv. Eyal Yinon: Application of Transparency Requirements to Meetings with Representatives of Tobacco Companies, February 27, 2019.
79. Adv. Eyal Yinon, Letter to Shabi Gatano: Your Letter Regarding Application of Transparency Requirements to Meetings Between Members of Knesset and Tobacco Companies’ Representatives, March 19, 2019.
80. [Prohibition of Advertising and Restricting of Marketing of Tobacco and Smoking Products Law, 5743-1983.](#)
81. [National Health Insurance Law, 1994, Section 40a, online mechanism for reporting on contributions to the health system.](#)
82. [Summary of Reports on Contributions Reported to the Ministry of Health,](#) from 2011 and onwards.
83. Rules for commercial-related engagements by health institutions: Director General’s Circular, November 2018.
84. [National Health Insurance Law, 1994, Section 40a.](#)



A GLOBAL
TOBACCO
INDUSTRY
WATCHDOG



Global Center for
Good Governance
in Tobacco Control

המיזם למיגור העישון
SMOKE FREE ISRAEL بلا تدخين