



STOPPING TOBACCO  
ORGANIZATIONS & PRODUCTS

COVID-19  
Monitoring  
Brief



Global



# STOP COVID-19 Monitoring Brief: The tobacco industry, its interests and allies

**Edition 8:** August — Focus on  
South Africa's Tobacco Ban

August 20, 2020

**In response to the changing situation around COVID-19 and feedback from readers, the monitoring brief is now in a monthly format covering the previous 4 weeks' developments, followed by a report focussed on a particular aspect of industry response over the course of the pandemic.**

**Previous editions of the STOP COVID-19 Monitoring Brief are now available on the [COVID-19 Tobacco Tactics resource page](#).**

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## Developments in the July/August monitoring period

### Science of Smoking and COVID-19

- Further academic research has been published on the dangers of both smoking **and** vaping during COVID-19.<sup>1</sup> These include:
  - A report in The Lancet on EVALI (e-cigarette, or vaping, product use-associated lung injury) and its intersecting risks with COVID-19.<sup>2</sup>
  - Research investigating smoking and vaping-associated blood coagulation and strokes, and its risks for COVID-19.<sup>3</sup>
  - Research from Stanford and UCSF that found increased risk of COVID-19 diagnosis amongst youth cigarette and e-cigarette users, based on survey response.<sup>4</sup>
- An ASH UK report suggests that more than 1 million people have stopped smoking since the start of the pandemic.<sup>5</sup>

### Tobacco Product Regulation

- In the USA, in response to the Stanford e-cigarette study, lawmakers have urged the FDA to consider a temporary ban on e-cigarettes during the pandemic.<sup>6</sup>
- Spain has banned smoking in public spaces where social distancing is not possible. These measure were initially put in place in Galicia and the Canary Islands and then applied nation-wide.<sup>7 8</sup> Industry representatives 'Mesa del Tabaco', have come out against the restrictions, citing lack of evidence of its effectiveness.<sup>9</sup>

## CSR and business strategy

- In Zambia, a local leader has publicly thanked JTI for its recent donation of US\$ 150,000
- BAT announced they applied for FDA approval for their Kentucky BioProcessing COVID-19 vaccine in July, and human trials may begin within weeks.<sup>10 11</sup>
- BAT stocks have been performing very well, with a report saying “the pandemic hasn’t made much if any difference.”<sup>12</sup>

## Additional Resources

- Stanford University [fact sheet on risks of smoking and vaping for COVID-19](#)
- The Swiss Association for Smoking Prevention have produced [fact sheets and videos \(in 5 languages\) to help smokers during COVID-19](#)
- GGTC’s [list of country specific tobacco industry donations](#) during COVID-19 between March and June 2020.
- [Tobacco Tactics: Tobacco Smuggling](#)
- GGTC’s [list of COVID-19 related bans and contemplated bans](#) per country: [Bans/ Contemplated Bans on Tobacco/ Vaping Products](#)
- STOP - [The Tobacco Industry’s Subversive Lobbying During COVID-19](#)
- [The Union: COVID-19](#) – Bi-weekly brief on the science of smoking and COVID-19 under FAQ’s section
- [STOP COVID-19 action center](#)

## In Focus: South Africa’s Tobacco Ban

### Overview of the ban

The pandemic has seen South Africa become a focal point for discussions around smoking and COVID-19. The government made the decision, whilst in ‘level 5’ lockdown, to ban sales of tobacco products along with alcohol and other ‘non-essential’ items on March 27, 2020.<sup>13</sup>

Other countries introduced restrictions on tobacco products and manufacture, including Botswana,<sup>14</sup> Russia<sup>15</sup> and India<sup>16</sup>, but South Africa’s were the most

comprehensive and long lasting, with restrictions lifted on August 17, 2020 after two legal challenges from the tobacco industry and their allies.<sup>17</sup>

Minister of Cooperative Governance and Traditional Affairs, Nkosazana Dlamini-Zuma, has been the key government official overseeing the ban. In court she explained that the ban was enacted to “protect human life and health, and to reduce the potential stain on the healthcare system”.<sup>18</sup>

In April 2020, President Ramaphosa suggested that the ban may be lifted as pandemic restrictions eased,<sup>19</sup> but the ban remained in place as the country entered ‘level 4’ lockdown on May 1<sup>st</sup>, 2020. This was followed by calls from Japan Tobacco International (JTI)<sup>20</sup> and British American Tobacco South Africa (BAT)<sup>21</sup> to reconsider the ban and then threats to challenge the ban in court from BAT and The Fair Trade Independent Tobacco Association (FITA). The FITA represent 80% of the country’s licensed cigarette manufacturers.<sup>22</sup> However, at the start of May BAT appeared to back down from legal threats, saying that they were pursuing “further discussions with government” out of court<sup>23</sup>. The FITA similarly withdrew their legal challenge following BAT’s announcement.<sup>24</sup> The industry hoped to persuade the government to change course by warning of increases in illicit trade of tobacco products, with lost tax earnings and money to organised crime.<sup>25</sup>

### Tobacco Smuggling

The [illicit trade argument](#) is a familiar tactic used by the tobacco industry to argue against tobacco regulation. Tobacco companies have a long history of facilitating tobacco smuggling, and in South Africa BAT, JTI, Imperial and The FITA have all attempted to undermine and interfere in track and trace systems that tackle illicit trade.<sup>26</sup> Illicit trade expert and former South African Revenue Service lawyer, Telita Snyckers, has said that BAT are supplying 25% of the illicit trade market during lockdown<sup>27</sup>, though she and others have also been critical of the ban, saying it has lost legitimacy<sup>28</sup> amid genuine concerns over increased

smuggling at the borders and questions over how best to regulate tobacco.<sup>29 30</sup> A study by the University of Cape Town found that 90% of those surveyed were still able to purchase cigarettes despite the ban.<sup>31</sup> The author of this study has also said that South African tobacco companies have supplied “More than 90 per cent of cigarettes sold during lockdown”.<sup>32</sup>

### **Big Tobacco vs. the Government**

Restrictions continued as lockdown entered ‘level 3’ on June 1<sup>st</sup>, 2020 and the FITA and BAT both renewed their legal challenges against the Government. The FITA’s case was heard on June 9<sup>th</sup>, 2020 at the High Court in Pretoria where it was eventually dismissed, with the judge declaring that tobacco was not an essential item.<sup>33</sup> The FITA then launched an appeal at the Supreme Court.

BAT South Africa’s legal challenge was heard on August 5<sup>th</sup>, 2020. The company argued that the regulation was a restriction on consumer rights and free trade, whereas Dlamini-Zuma argued that they were protecting the healthcare system.<sup>34</sup> Judgement was still reserved at time of writing, however the ban was lifted on August 17<sup>th</sup>, 2020 as lockdown entered ‘level 2’.<sup>35</sup> The FITA are continuing to pursue their Supreme Court appeal despite the ban now being lifted.<sup>36</sup>

### **Tobacco industry tactics at play**

This has been a complex situation that exemplifies the tobacco industry’s manipulative behaviour during the pandemic and before. The industry has sown doubt about the [science of smoking and coronavirus](#),<sup>37</sup> [challenged tobacco regulation in court](#), and used [illicit trade](#) arguments to create an image of [corporate social responsibility](#) whilst defending profits.<sup>38</sup> Meanwhile, Philip Morris International have created [marketing opportunities](#) out of the public health debate.<sup>39</sup>

BAT in particular have a history of accusations of bribery, corruption and policy interference in Africa<sup>40</sup> and this court case against a national government in response to loss of business sets a precedent for further legal challenges to COVID-19 related legislation, and

not just from Big Tobacco.<sup>41</sup> Whilst the success of the ban may be open to debate, the move was informed by South Africa’s and Dlamini-Zuma’s long history of boldly challenging tobacco industry power.<sup>42</sup>

### **Additional Resources**

- [The tobacco industry’s hypocrisy on illicit trade](#)
- Tobacco Tactics - [South Africa Country Profile](#)
- Tobacco Tactics - [BAT Involvement in Tobacco Smuggling](#)
- Tobacco Tactics – [Tobacco Smuggling](#)

### **Get in touch**

We welcome any contributions on issues mentioned in this update or anything related to COVID-19 and the Tobacco Industry. Contact us at [bath@exposetobacco.org](mailto:bath@exposetobacco.org).

STOP’s Rapid Engaged Action Team (REACT) supports governments and advocates facing challenges from the tobacco industry on crucial policy debates. [Request help](#)

Visit the [Tobacco Tactics COVID-19](#) page for further information.

## Endnotes

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