

PE1580/C

5th January 2016

Michael McMahon
Convener
Public Petitions Committee
Scottish Parliament
Edinburgh
EH99 1SP

Dear Convener and Committee Members

Petition PE1580

Thank you for inviting me to respond to the correspondence you have requested and received to date with regards to the above petition.

I note with disappointment that at the time of writing, no response has yet been received from the World Health Organisation. I would hope that any response received before 12th January might still be tabled for consideration by the Committee.

The petition was raised following several apparent breaches within Scottish Parliament Committees of Scotland's obligations under the only international public health treaty, the Framework Convention on Tobacco Control (FCTC), in particular of Article 5.3 and its associated implementation guidelines. These incidences were outlined within the petition.

I'd like to reiterate that the purpose of FCTC Article 5.3 is to protect health policies from tobacco industry interference (of which there is a long-standing, substantial, and well-documented history). The implementation guidelines do not prohibit Parliament from engaging with the industry, but set out an expectation that measures will put in place to ensure that such engagement is appropriate, and that as far as possible tobacco companies and their vested interests do not interfere with public health policy.

I welcome the Scottish Government's response to the Committee's enquiry. It sets out a number of measures that have already been taken by the Scottish Government in order to meet Scotland's treaty obligations, and reiterates a commitment made in the current national tobacco strategy to further audit compliance. This is a thoughtful, committed and open approach to reflecting on and meeting Scotland's treaty obligations and I would hope that the Committee will recommend that the Parliament takes a similar approach.

In contrast, the Corporate Body's response appears to be inadequate with regards to Scotland's treaty obligations. It sets out the view that Scotland's treaty commitments are already being met through a 'business as usual' approach that includes a degree of transparency. However it fails to address the instances raised in the petition as specific concerns with regards to Scotland's compliance with the FCTC treaty and guidelines on implementing Article 5.3. It is disappointing that a mere assertion of compliance could be considered by the Corporate Body to be a sufficient response to meeting any international treaty obligations, and I believe that they should be asked to provide a more specific response with regards to how the incidences outlined below fit in with this claimed compliance.

Specifically, these instances were identified in the petition:

The Health & Sport Committee's invitation to tobacco company Japan Tobacco International (JTI) to give evidence to the Committee on Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill, which led to JTI's commenting freely on the issue of proposed smoke-free perimeters around hospital grounds.

The Health & Sport Committee's invitation to the tobacco industry's vested interest, the Tobacco Manufacturers' Association (TMA), to give evidence on the issue of proposed legislation to prohibit smoking in vehicles with under-18s present.

The Economy, Energy and Tourism Committee's circulation of both campaign and press materials commissioned by the tobacco company Philip Morris International (PMI) which contained misinformation regarding the proposed introduction of a public health measure, standardised tobacco packaging. PMI's campaign materials included unfounded claims linking standardised tobacco packaging and illicit tobacco.

These instances do not appear to comply with the guidelines on implementing Art 5.3, including the following:

(2) 20: 2.1 "Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products."

(2) 21. "The tobacco industry should not be a partner in any initiative linked to setting or implementing public health policies, given that its interests are in direct conflict with the goals of public health."

(5) "Require that information provided by the tobacco industry be transparent and accurate."

In order to meet Scotland's legal obligations under the treaty, the guidelines on Article 5.3 are clear that Scotland's Committees should also be held accountable for its implementation:

9. "The guidelines apply to setting and implementing Parties' public health policies with respect to tobacco control. They also apply to persons, bodies or entities that

contribute to, or could contribute to, the formulation, implementation, administration or enforcement of those policies.”

At present there appears to be a significant disparity between the approach taken by the Scottish Government, which is fulfilling the treaty requirements in a number of ways and is committed to a further consideration and audit of its compliance, and the approach being taken by the Scottish Parliament. As the Parliament and Committees remain an integral and fundamental part of the process of health policy formation, I believe that the current stance proposed by the Corporate Body is letting Scotland down badly.

Scotland has already established a proud international track record of leadership in tackling issues relating to tobacco products and by-products, the tobacco industry and the tobacco epidemic. I believe that the Corporate Body’s view if endorsed by the Petitions Committee would strongly disappoint the international public health community, and I hope that the Petitions Committee will affirm the need for further considered reflection on behalf of the Parliament with regard to how the Scottish Parliament can best meet its obligations under this important and life-saving treaty.

I look forward to hearing the outcome of your further discussions.

Yours sincerely

Sheila Duffy
Chief Executive