
The United States: No Longer a World Leader in Tobacco Control

SURGEON GENERAL'S WARNING:
The United States Has Lost its
Leadership Role on Tobacco

The tobacco industry has long argued that it is the most regulated industry in the United States. In addition, many Americans believe that the United States is the world leader in tobacco control and that other countries have a much more laissez-faire attitude both about the health effects of smoking and the need for strong government regulation of the tobacco industry.

It is true that the United States was in the forefront of the tobacco control movement for decades. In recent years, however, the U.S. has fallen behind as the industry has successfully challenged one regulation after another, repeatedly killed efforts to have effective tobacco regulations through the U.S. Food and Drug Administration (FDA), and blocked other legislation in Congress that would rein in the tobacco industry. In addition, the U.S. federal government often ignores the findings of its own scientific bodies when that evidence points to the need for tougher regulation of tobacco. Indeed, many Americans would be surprised to discover that in many areas of tobacco policy, the United States is now a laggard in tobacco control, rather than a leader.

Since 1999, more than 190 nations have been negotiating a global tobacco treaty — the Framework Convention on Tobacco Control (FCTC) — in order to stem the rising global death toll from tobacco. Rather than supporting the development of a treaty that would protect public health, the United States government has used its substantial influence to continually oppose treaty provisions that would give countries the tools to protect their citizens from the scourge of tobacco.¹ The following is a brief comparison of U.S. laws with those of other countries in some key areas of tobacco policy.

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Advertising & Marketing

Each year, the tobacco industry spends billions of dollars around the globe on advertising, promotions and other forms of marketing. The overwhelming majority of independent, peer-reviewed studies show that tobacco advertising leads to an increase in consumption.² A 2000 study published by the World Bank examined data from 102 countries and found that partial

bans were ineffective in reducing tobacco consumption. It found that cigarette consumption in countries with comprehensive bans on advertising and promotions declined by about 8 percent.³ The World Bank recently concluded that “bans on advertising and promotion prove effective, but only if they are comprehensive, covering all media and all uses of brand names and logos.”⁴

A growing number of countries around the world have enacted total bans on tobacco advertising and marketing, including:

Botswana
Estonia
Finland
Lithuania

Mongolia
Niger
Norway
Singapore

South Africa
Sweden
Thailand
Tonga

United States: *Tobacco industry spending on advertising and promotion in the United States has reached record levels. The industry spent \$9.57 billion to promote its product (or more than \$26.2 million every day) in 2000, an increase of more than 42 percent since 1998.⁵ Regulation of advertising in the United States is carried out exclusively at the federal level — states are preempted from most regulation of tobacco advertising. The primary constraints on advertising are: (1) a ban on advertising on radio and television⁶; and (2) the Federal Trade Commission’s authority to challenge any tobacco advertisement that is ‘unfair or deceptive’.⁷ During the negotiations on the FCTC, the overwhelming majority of countries have supported a total, global ban on tobacco advertising with an exemption for countries with constitutional constraints. But even with this exemption, the United States has opposed this provision, citing First Amendment guarantees of freedom of speech, including commercial speech.*

Regulation of Tobacco Products

The modern cigarette consists of much more than tobacco. Nicotine, a highly addictive drug found naturally in the tobacco plant, is manipulated with precision to enhance addiction, and hundreds of additives ranging from sweeteners to ammonia are blended in, usually with no prior government testing, disclosure or oversight. Although tobacco companies often claim that many of the additives they use are approved for human consumption they fail to mention that burning changes the chemical properties of these additives, making them potentially toxic and/or pharmacologically active.

In Canada, the government is authorized to establish standards for tobacco products. These standards include: prescribing the amounts of substances that may be contained in the product or its emissions; prescribing substances that may not be added to tobacco products; prescribing test methods; and prescribing information that manufacturers must provide to the Canadian government about tobacco products and their emissions.¹³ In Brazil, the government requires that all companies register tobacco products by brand and provide to the government information on the types of additives used and compounds present in the mainstream and side-stream smoke of the product.¹⁴ In the European Union, companies have until December 2002 to disclose a list of all ingredients (on a brand-by-brand basis), explain

the reason for their inclusion and the function of each additive. That information will then be made public to consumers.¹⁵

United States: *In the United States, the government regulates the food we eat, the drugs we take and the medical devices we use. Consumers have the right to know what companies put into their products, and the government is empowered to prohibit certain ingredients. Moreover, the government requires that important information about the product (e.g., ingredients, calories, fat grams, side effects) be conveyed to consumers so that they can make informed choices. But such regulations do not apply to tobacco products, which are consumed by nearly 48 million Americans, and kill more than 400,000 people in the U.S. each year. Currently, the United States has no tobacco product regulation other than the discredited FTC tar and nicotine testing program. The only requirement is that each company send a list to the U.S. Department of Health and Human Services listing all the ingredients that the company uses (but not on a brand or variety level). This list may not be disclosed publicly. The tobacco industry has successfully challenged the FDA’s assertion of jurisdiction over tobacco products in court and has blocked every legislative attempt to grant the FDA regulatory authority.*

Warning Labels

Health warning labels, both on cigarette packages and on all marketing materials, are an important step in a national health education program. According to the World Bank, “People’s knowledge of the health risks of smoking appears to be partial at best, especially in low- and middle-income countries where information about these hazards is limited.”⁸ Warning labels, a measure recommended by the World Health Organization (WHO), the World Bank and others, provide a way of communicating with smokers that is costless to governments.

In the past few years, a number of countries and jurisdictions have passed strict legislation on warning labels. Brazil and Canada have made rotating, picture-based warnings mandatory. In the European Union, recent legislation gives member countries the option of adding pictures to mandatory warnings. Australia, Poland, South Africa and Thailand are among other countries that have recently passed stringent labeling requirements.



Brazilian, U.S. and Canadian Pack Warnings

United States: *U.S. law requires that four rotating warning labels be printed on cigarette packaging. The warnings are health specific and warn of specific diseases, the benefits of quitting, concerns with smoking during pregnancy and the presence of carbon monoxide in the smoke. The warning labels appear in small type on the side of the package, often in non-contrasting colors which make them difficult to read. Although the content of the warning labels has been changed twice, the inconspicuous size and contrast for the warnings has not been changed since 1964.⁹*

“Light” & “Low Tar” Cigarettes

A landmark study by the U.S. National Cancer Institute (NCI) published in November 2001 found that “low tar” and “light” cigarettes do not reduce smokers’ health risks.¹⁰ According to the NCI report, “Many smokers switch to lower yield cigarettes out of concerns for their health believing these cigarettes to be less risky or to be a step toward quitting.” However, according to the report, “current evidence does not support either claims of reduced harm or policy recommendations to switch to these products.”¹¹ Already, a number of countries and jurisdictions have banned or are in the process of banning terms such as “light” and “low tar” that imply a particular tobacco product is less harmful than others. These include Brazil and the European Union. In addition, the Canadian government has announced its intention to ban light and mild claims.

United States: *The tobacco industry has continually opposed any measure which would restrict its ability to market “light” and “low tar” brands, which constitute 82% of all cigarettes sold in the United States.¹² In the negotiations on the FCTC, the United States has opposed the banning of such terms, despite the evidence from its own U.S. National Cancer Institute and in the face of support for such a ban by the overwhelming majority of countries in the negotiations.*

Tobacco Taxes

Increasing the price of cigarettes is widely considered to be the single most effective method of reducing demand for cigarettes since higher prices induce some smokers to quit and prevent other individuals – particularly young people and the poor, who are the most price sensitive – from starting.

United States: According to data from the World Bank, the United States has one of the lowest cigarette tax rates among high-income countries, lagging behind such countries as France, Greece, Italy, Portugal and Spain. It even has lower cigarette taxes than some developing countries such as Argentina, Brazil and Chile. In terms of cigarette taxes as a percentage of the retail price, the United States is even farther behind. According to the World Bank, cigarette taxes in the United States comprise

less than 30 percent of the price of a pack of cigarettes, a lower percentage than a number of countries from both the developed and developing world, including Albania, Bolivia, El Salvador, France, Germany, Hungary, Jamaica, Pakistan, Poland, South Korea, Thailand, Turkey and Vietnam.¹⁶ The current federal excise tax in the United States is 39 cents a pack. The last federal tax increase in the United States was a 5-cent increase in 2002. Facing large budget deficits, states have been more active in increasing cigarette prices, with 21 states and the District of Columbia having increased cigarette taxes since November 2001. State tax levels vary greatly and usually reflect the relative influence of the tobacco industry, ranging from \$0.03 in Kentucky and \$0.05 in North Carolina to \$1.51 in Massachusetts, \$1.50 in New Jersey and \$1.50 in New York.

Resources

Campaign for Tobacco Free Kids' International Section

<http://www.tobaccofreekids.org/global>

Framework Convention Alliance

(coalition of over 180 groups from more than 70 countries working for a strong FCTC)

<http://www.fctc.org>

National Tobacco Information Online Systems

(global database of tobacco regulations and statistics)

<http://apps.nccd.cdc.gov/nations/>

Tobacco Information from the World Bank

<http://www1.worldbank.org/tobacco/>

World Health Organization's Tobacco Free Initiative

<http://www5.who.int/tobacco/index.cfm>

References

- ¹ More information on the FCTC and international tobacco issues can be found at: <http://www.tobaccofreekids.org/global/>. For a useful overview of some of the U.S. Administration's destructive positions in the FCTC negotiations, see: Henry Waxman, "The Future of the Global Tobacco Treaty Negotiations," *New England Journal of Medicine*, Vol. 346, No. 12, pp. 936-939, 21 March 2002; <http://content.nejm.org/cgi/content/full/346/12/936?ikey=YQdPMe9b9qIVk&keytype=ref&siteid=nejm%20>
- ² For example, U.K. Department of Health, *Effect of Tobacco Advertising on Tobacco Consumption: A Discussion Document Reviewing the Evidence*, (London: Economics and Operational Research Division, Department of Health, October 1992) and Toxic Substances Board, *Health OR Tobacco: An End to Tobacco Advertising and Promotion*, (Wellington, New Zealand: Department of Health, May 1989).
- ³ Henry Saffer, "Tobacco Advertising and Promotion," in *Tobacco Control Policies in Developing Countries*, Frank J. Chaloupka and Prabhat Jha eds., (Oxford: Oxford University Press, 2000).
- ⁴ World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control* (Washington: World Bank, 1999).
- ⁵ U.S. Federal Trade Commission (FTC), *Cigarette Report for 2000*, <http://www.ftc.gov/os/2002/05/2002cigrpt.pdf>, 2002.
- ⁶ 15 USC 1331, 1335.
- ⁷ Federal Trade Commission Act, 15 USC41.
- ⁸ World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control* (Washington, D.C.: World Bank, 1999).
- ⁹ Federal Cigarette Labeling and Advertising Act, 15 USC 1331.
- ¹⁰ For a summary of the NCI report, see: <http://tobaccofreekids.org/reports/lowtar/ftksummary.pdf>
- ¹¹ U.S. National Cancer Institute, Monograph 13: *Risks Associated with Smoking Cigarettes with Low Machine-Measured Yields of Tar and Nicotine*, (Washington: U.S. Department of Health and Human Services, 2001). <http://cancercontrol.cancer.gov/tcrb/monographs/13/>
- ¹² Federal Trade Commission, "Tar, Nicotine, and Carbon Monoxide of the Smoke of 1294 Varieties of Domestic Cigarettes for the Year 1998" (2000).
- ¹³ See http://www.parl.gc.ca/bills/government/C-71/C-71_3/21404bE.html
- ¹⁴ Source: http://www.anvisa.gov.br/eng/legis/res_rdc105.htm
- ¹⁵ European Union (press release), "Tough EU Rules on Manufacture, Presentation and Sale of Tobacco Products Take Effect," 27 September 2002; http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action=gettxt=gt&doc=IP/02/1383101RAPID&lg=EN
- ¹⁶ F. Chaloupka, T. Hu, K. Warner, R. Jacobs and A. Yurekli, "The Taxation of Tobacco Products," in *Tobacco Control in Developing Countries*, Frank J. Chaloupka and Prabhat Jha eds., (Oxford: Oxford University Press, 2000).

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