

## ASH submission to the CLG Select Committee Inquiry on Litter

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This evidence focuses on smoking related litter with specific reference to evidence provided by the tobacco company, Japan Tobacco International (JTI) and the tobacco industry representatives, the Tobacco Manufacturers Association (TMA). The tobacco industry has sought to use corporate social responsibility activity on litter to make its profile more acceptable to other organisations. Action on Smoking and Health (ASH) believes that government engagement with or endorsement of this activity runs counter to the WHO Framework Convention on Tobacco Control (FCTC) to which the UK is a party.

We hope the committee will take this into account when considering any recommendations in relation to smoking litter. This evidence covers:

- 1. Prevalence of smoking related litter**
- 2. Local authority obligations under the WHO Framework Convention on Tobacco Control**
- 3. Tobacco industry's involvement in litter**
- 4. Alternative models for reducing tobacco related litter**

### 1. Prevalence of smoking related litter

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1.1 Cigarette butts are the single most littered item in England:

- 38bn filtered cigarettes are smoked every year in England, resulting in approximately 6395 tonnes of waste annually
- Of this, more than 1471 tonnes of cigarette waste is discarded as litter that must be collected by local government street cleaning services<sup>1</sup>
- Surveys by Keep Britain Tidy in 2013/14 found cigarette butts in 73% of all sites surveyed
- Cigarette butts cause serious environmental problems, taking up to 12 years to biodegrade.

### 2. Local authority obligations under the WHO Framework Convention on Tobacco Control (FCTC)

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2.1 The FCTC and its guidelines<sup>2</sup> make it clear that government endorsement, encouragement or engagement with tobacco industry Corporate Social Responsibility (CSR) activity is inappropriate as the tobacco industry can and has used CSR activity to create a more credible profile for itself and its policy positions.

2.2 The FCTC is a WHO treaty on tobacco which creates an international framework for managing the tobacco epidemic. It is the first health treaty of its kind and has 180 parties across the world. Article 5.3 of the FCTC specifically states that: *"In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.* The first Principle of the Guidelines to Article 5.3 go further and state that Parties: *"should protect the formulation and implementation*

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<sup>1</sup>Data from the ASH ready reckoner tool. Full details and methodology here:

<http://ash.org.uk/localtoolkit/docs/Reckoner.xls>

<sup>2</sup>The FCTC and its guidelines are available on the World Health Organisation website here:

<http://www.who.int/fctc/publications/en/>

*of public health policies for tobacco control from the tobacco industry to the greatest extent possible.*<sup>3</sup>

2.3 Specifically on CSR activity the Article 5.3 guidelines recommend that parties should: *“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”.*

2.4 The guidelines provide further detail: *“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.*

*“The corporate social responsibility of the tobacco industry is, according to WHO, an inherent contradiction, as industry’s core functions are in conflict with the goals of public health policies with respect to tobacco control.”*

2.5 The guidelines go on to recommend:

- *“Parties should ensure that all branches of government and the public are informed and made aware of the true purpose and scope of activities described as socially responsible performed by the tobacco industry.*
- *“Parties should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible.”*

2.6 The Local Government Declaration on Tobacco Control<sup>4</sup> includes, among other things, an affirmation of the obligations councils already have under the FCTC. It is in line with the guidelines to Article 5.3 and with commitments made at national level in the Tobacco Control Plan for England and elsewhere. The Declaration has been a ‘bottom-up’ initiative supported by the Smokefree Action Coalition and Action on Smoking and Health. It was developed and passed by Newcastle City Council in May 2013 and has since been signed by over a third of all top tier authorities. In a letter to all councils the Leader of Newcastle City Council stated: *“The Declaration includes a specific and important commitment to protect health policy from the influence of the tobacco industry. This is an obligation already placed on local authorities through the World Health Organisation Treaty on tobacco – however the Declaration reminds us of our obligations and restates our commitment.”*<sup>5</sup>

2.7 The tobacco industry and its representatives have claimed in the evidence presented to this committee that: *“Neither Article 5.3 nor the Local Government Declaration call for the exclusion of the tobacco industry from areas of Government activity unrelated to public health policy, such as tackling litter... this is an entirely incorrect interpretation of the FCTC and LGDTC.”*<sup>6</sup> We disagree with this analysis.

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<sup>3</sup> WHO, Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control, [http://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](http://www.who.int/fctc/guidelines/article_5_3.pdf)

<sup>4</sup> Local Government Declaration on Tobacco Control <http://www.smokefreeaction.org.uk/declaration/>

<sup>5</sup> Letter from Nick Forbes, Leader of Newcastle City Council, 2013  
<http://www.smokefreeaction.org.uk/declaration/files/LGD-TopTier.pdf>

<sup>6</sup> Tobacco Manufacturers Association, Evidence submitted to the CLG Select Committee Inquiry on Litter, October 2014  
<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/litter/written/14347.html>

2.8 The evidence presented by the TMA and JTI fails to take account of the guidelines to Article 5.3 of the FCTC. Guidelines to the FCTC are a more detailed guide to parties on how to implement the provisions of the treaty. While these guidelines are non-binding they do represent best practice based on international experience and the UK Government has sought to act in line with them. The WHO FCTC Article 5.3 guidelines are very clear on issues which relate to corporate social responsibility by the tobacco industry as we have highlighted above.

2.9 The UK Government has applied this guidance in the recent joint Foreign and Commonwealth Office and Department of Health Guidance for Overseas Posts on Support to the Tobacco Industry<sup>7</sup>. This states that Posts must not *'endorse projects which are funded directly or indirectly by the tobacco industry'* or *'endorse, support, form partnerships with, or participate in activities of the tobacco industry that could be described as "socially responsible", that relate, for example, to public education or that are aimed at improving public health'*.

2.10 In the context of the FCTC, the Local Government Declaration on Tobacco Control and the UK Government's stated position it is inappropriate for local councils to be encouraged by central government to work in partnership with the industry.

### 3. Tobacco industry's involvement in litter

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3.1 The tobacco industry has been using litter campaigns to position itself as an acceptable partner for local authorities.<sup>8</sup> Companies have used their involvement in litter campaigns to illustrate their partnership credentials. For example JTI used its involvement in the Love Where You Live campaign to provide its partnership credentials as evidence to this committee in 2012 during the inquiry on Local Government Involvement in Health Issues. In its evidence JTI claimed that its work on litter on other issues: *"demonstrate that worthwhile and genuine partnerships can be formed with tobacco companies despite the perceptions that exist, and that there is a role for discussions with companies such as JTI in the development of local policy on tobacco issues."*<sup>9</sup>

3.2 In the oral evidence presented by the TMA at the CLG committee, the importance of partnerships with local government was also emphasised. When the TMA was pressed on why tobacco companies did not just work through tobacco retailers to communicate and facilitate reduction in litter the TMA responded: *"That is one solution, but what we want to do is talk to local government who won't talk to us at the moment."*<sup>10</sup> The tobacco industry's interest in litter is closely linked to its desire to have close partnerships with local authorities, a tactic that it has used across the world to gain credibility and access to the policy making process

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<sup>7</sup> Foreign and Commonwealth Office and Department Health, Guidance for Overseas Posts on Support to the Tobacco Industry, 2013

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/287119/Guidance\\_for\\_Overseas\\_Posts\\_on\\_support\\_to\\_the\\_Tobacco\\_Industry.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/287119/Guidance_for_Overseas_Posts_on_support_to_the_Tobacco_Industry.pdf)

<sup>8</sup> University of Bath, Tobacco Tactics website, Love Where You Live page

[http://tobacotactics.org/index.php/CSR:Imperial\\_and\\_Love\\_Where\\_You\\_Live](http://tobacotactics.org/index.php/CSR:Imperial_and_Love_Where_You_Live)

<sup>9</sup> Japan Tobacco International, Evidence submitted to the CLG Select Committee Inquiry on The role of local authorities in health issues, October 2012:

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcomloc/694/694vw13.htm>

<sup>10</sup> TMA, oral evidence to the CLG Select Committee, 6<sup>th</sup> January, 2015

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/litter/oral/17273.html>

3.3 As has been highlighted by tobacco industry evidence, many councils and organisations are now refusing to work with the tobacco industry on issues relating to litter. *Keep Britain Tidy* announced in 2014 that the charity would no longer work with or accept money from the tobacco industry. *Keep Britain Tidy* put out a press statement quoting chief executive Phil Barton saying: *“It has become clear that Keep Britain Tidy is in a position where continuing to take funds from the tobacco industry will seriously jeopardise our ability to maintain good working relationships with essential public sector stakeholders, particularly in local government, without whose co-operation we would be unable to deliver our work across the board for the improvement of local environments which is at the heart of our work.*

Barton continued: *“Smoking-related litter is a big issue for us as it affects every high street and community in the country costing local authorities millions of pounds a year to clean it up. We want to work in partnership with councils to address this issue and reduce the financial burden it causes.”*<sup>11</sup>

## 4. Alternative models for reducing tobacco related litter

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4.1 The tobacco industry should pay towards the cost incurred by smoking-related litter. However, as the Department for Communities and Local Government make clear in their submission, the *‘means to address this litter issue’* must be: *“Subject to the provisions of Article 5.3 of the World Health Organisation Framework Convention on Tobacco Control and accompanying Guidelines on Implementation, which restrict the ability of central government to ‘endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible’...”*<sup>12</sup>

4.2 In the Autumn statement the Chancellor said that, *“Smoking imposes costs on society, and the Government believes it is therefore fair to ask the tobacco industry to make a greater contribution”*.<sup>13</sup> HM Treasury’s consultation which closes on February 18<sup>th</sup> states that: *“Smoking imposes large costs on society. In addition to the obvious costs to public health, smoking also creates many indirect costs relating to productivity and other businesses losses, fire and environmental harm.”*<sup>14</sup>

4.3 It goes on to say that: *“Tobacco manufacturers and importers benefit from the activity that imposes these costs on society. For this reason, the government believes it is fair to ask tobacco manufacturers and importers to make a greater contribution towards these costs. Any levy would be based on market share. This means that those who benefit most from smoking activity would pay more of the levy.”*<sup>15</sup>

4.4 A levy on the industry at a national level that was redistributed locally, regionally and nationally would be an appropriate mechanism for ensuring that the industry pays for the

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<sup>11</sup> University of Bath, Tobacco Tactics website, Love Where You Live page

[http://tobaccotactics.org/index.php/CSR: Imperial and Love Where You Live](http://tobaccotactics.org/index.php/CSR:Imperial_and_Love_Where_You_Live)

<sup>12</sup> Department for Communities and Local Government, Evidence submitted to the CLG Select Committee Inquiry on Litter, October 2014:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/litter/written/14321.html>

<sup>13</sup> Comment from the Chancellor during 2014 Autumn Statement quoted in ASH press release:

<http://www.ash.org.uk/media-room/press-releases/government-s-consultation-on-a-levy-on-tobacco-industry-welcomed-by-ash>

<sup>14</sup> HM Treasury, Tobacco Levy: consultation, December 2014:

<https://www.gov.uk/government/consultations/tobacco-levy>

<sup>15</sup> HM Treasury, Tobacco Levy: consultation, December 2014:

<https://www.gov.uk/government/consultations/tobacco-levy>

harm it causes. This would not require any direct relationships with local authorities and would comply with Article 5.3 obligations.

- 4.5 Evidence from local government to this inquiry makes a similar suggestion. The LGA evidence makes the case for a proportion of tobacco taxation being returned to local government to better enable local authorities to manage the problem of tobacco related litter: *“To rebalance the costs a proportion of the existing tobacco duty could be used to contribute towards the clean-up and associated preventative campaigns. The LGA’s recently called for a fifth of existing tobacco duty to be used in preventative measures by local authorities to reduce smoking and its health impacts, which could also contribute towards the cost of clearing up cigarette litter.”*<sup>16</sup>
- 4.6 Local authority smoking-related litter campaigns which exclude the tobacco industry can also address tobacco consumption. For example as part of the recent City of London campaign smokers who were issued with a fixed penalty notice could off-set the cost with Boots vouchers where they attended a stop smoking advice session. Information to smokers about litter also included stop smoking messaging.<sup>17</sup>
- 4.7 The tobacco industry makes enormous profits from selling a uniquely harmful product. It should pay for the harm it causes through an appropriate route. However, the industry should not be allowed to use smoking-related litter initiatives as a lever to enable it to develop partnerships with local or national government.

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<sup>16</sup> LGA, Evidence submitted to the CLG Select Committee Inquiry on Litter, October 2014: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/communities-and-local-government-committee/litter/written/14270.html>

<sup>17</sup> City of London, Smoking related litter campaign, <http://www.cityoflondon.gov.uk/services/transport-and-streets/clean-streets/Pages/smoking-related-litter.aspx>