

REPORT
OF
THE COMMITTEE ON HEALTH
ON
THE TOBACCO CONTROL BILL, 2014

Joseph Nya-Nya

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JUNE 2015

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1.0 Introduction

The Tobacco Control Bill, 2014 was read for the first time on 6th March, 2015 and it was referred to the Committee on Health in accordance with Rules 117 and 118 of the Rules of Procedure of Parliament for scrutiny. In scrutinizing the Bill, the Committee was guided by Rule 118 of the Rules of Procedure of Parliament and hereby presents its findings and recommendations.

2.0 Methods employed in scrutinizing the Bill

The Committee used three methods to gather data on the suitability of the Bill. These were:

1. Public hearings at the precinct of Parliament and in the field, especially tobacco growing areas. The Committee received views from the following stakeholders:
 - a. Hon Chris Baryomunsi – the mover of the Bill
 - b. The Minister of State for Health in charge of Primary Healthcare,
 - c. The Minister of State for Trade and Investment,
 - d. The Commissioner, Ministry of Agriculture, Animal Industry and Fisheries
 - e. Civil society coalition on tobacco control
 - f. Director, Uganda Cancer Institute
 - g. Centre for Tobacco Control in Africa
 - h. Uganda National Academy for Sciences
 - i. Tobacco Industry Players including BAT-, Mastermind, Greenleaf, Tobacco Company Uganda Ltd
 - j. Uganda Law Society
 - k. Kampala City Traders Association (KACITA)
 - l. National Environment Management Authority

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- m. Family Life Network
 - n. Leadership of Tobacco Farmers in Kihiihi, Kanungu District
 - o. Leadership of Tobacco Farmers in Hoima and Kibale (Bunyoro Sub Region)
 - p. Tobacco Farmers in Kole and Arua Districts
2. Benchmarking the tobacco control law making experiences in Kenya
 3. Scrutinizing the Bill, clause by clause.

The combination of the above efforts provided insights to the Committee on Health on the economics and public health concerns about tobacco control regulations. Below, the Committee reports its findings and recommendations.

3.0 Objects of the Tobacco Control Bill, 2014

The Committee noted that the import of the Bill was to mitigate the negative public health consequences of tobacco use and exposure. In specific terms, the object of the Bill is to:

- Protect present and future generations from the devastating health, social, economic and environmental consequences of tobacco use and exposure;
- Regulate the manufacture, sale, labeling, promotion, advertizing, distribution, public use of tobacco products, and sponsorship of tobacco products in order to inter alia protect the health of the population in light of the conclusive scientific evidence demonstrating the debilitating effects of tobacco use and exposure including disability and death.
- Ensure that Uganda meets her obligations to promote health and other human rights spelt out in the World Health Organization Framework Convention on Tobacco Control, a Convention to which Uganda is a

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party having signed the instrument in 2007. It is important to note that Uganda, as a state party to the WHO Framework Convention on Tobacco Control (WHO FCTC) is under obligation to have domesticated the Convention after 5 years of its signing.

The Committee noted that the main reason of the Bill is to discourage people, especially the young ones, from tobacco use and to protect non-smokers from the tobacco – related illnesses, research having shown that globally, 600,000 people die from second hand smoking effects.

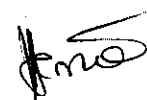
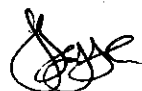
The Committee was convinced that tobacco use and exposure was a major cause of cancer-related deaths. Tobacco smoke contains up to 7000 chemicals of which 69 have cancer causing elements. Globally, World Health Organization (WHO) estimates that smoking causes about 71% of lung cancer, 42% of chronic respiratory disease and nearly 10% of cardiovascular diseases.

The Committee noted that cancers in Uganda were on the increase. ¹Taking a look at cancer alone and focusing on the Uganda Cancer Institute (UCI), the average annual patient turnover is 1780 patients most of whom report in advanced stages (stage 4) and at this stage patients need six cycles of chemotherapy treatment and each cycle costs about 1 million UGX making cost per patient 6million. With 1,780 patients annually, UCI needs approximately 10.7 billion UGX for drugs alone.

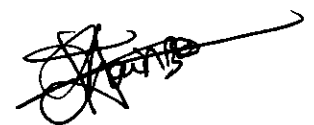
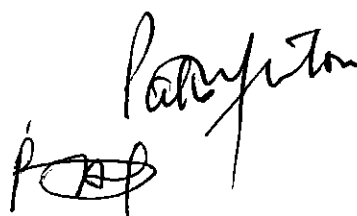
The Committee further noted that there were ongoing efforts globally to reduce on non-communicable diseases by controlling the use of Tobacco.



¹ Ministry of Health annual sector performance report.



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4.0 Key Measures Proposed in the Bill to Discourage Tobacco Use

The key measures that are proposed to reduce tobacco use and exposure, and discourage non-smokers, especially the young, from tobacco use are:

- (i) Establishment of the Tobacco Control Committee as the national coordinating body for purposes of effective implementation of the WHO Framework Convention on Tobacco Control.
- (ii) Imposing a responsibility on a person consuming a tobacco product to ensure that he or she does not expose another person to tobacco smoke.
- (iii) Total ban on indoor smoking in public places.
- (iv) Prohibiting smoking within 100 metres of any public space, work place, means of public transport or any other place that provides services primarily to a minor.
- (v) Imposing a responsibility on the owner of a premise where smoking is not permitted to display a clear and prominent notice to that effect in a conspicuous place.
- (vi) Comprehensive regulation of tobacco advertizing, promotion and sponsorship.
- (vii) Restricting the sale, supply and use of tobacco products by enumerating places and distance where tobacco products are not to be sold.
- (viii) Restricting the supply or sale of tobacco - products to persons below the age of 21 years.
- (ix) Restricting the importation, manufacture, distribution and sale of tobacco products.
- (x) Limiting government's interaction with the tobacco industry to matters of regulation only.

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(xi) Prohibiting policy makers from partnerships and endorsements with the tobacco industry.

(xii) Establishing an elaborate enforcement mechanism, offences and penalties.

5.0 Concerns Raised about the Measures in the Bill

The Committee would like to report that all the witnesses, including the tobacco industry players, appreciated the negative health impact of tobacco use and exposure. But beyond that, there were disagreements on some of the provisions of the Bill. Some argued that the measures being proposed were excessive and practically un-enforceable. Some thought that the interventions against tobacco – related health could be executed through education, rather than regulation and also argued that, in Uganda, the major cause of death was not tobacco –related. Another point of disagreements was based on the divergent interests of the advocates of economic growth and those of public health. The controversial issues are discussed below:

5.1 Public Health Advocates

The advocates of public health included Ministry of Health, Civil Society organizations, the Centre for Tobacco Control in Africa, the Uganda National Academy of Sciences and the Uganda National Health Consumers Organisation. Their key message was as follows:

a) Tobacco use remains one of the major health challenges of our times.

Tobacco smoke exposure causes disease and death

(i) Tobacco use is the single most preventable cause of death among adults.

No consumer product kills as many people as Tobacco does. The

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epidemic kills nearly 6 million people worldwide each year, of which more than 5 million are users, ex users and more than 600,000 are exposed to second hand smoke.

(ii) Smoking is a known cause of lung cancer, heart diseases, low birth-weight births, and chronic lung diseases such as bronchitis as well as other health problems. Every year globally, smoking causes over 600,000 premature deaths. Of all premature deaths, 47% (281,000) occur among nonsmoking women and 28% (166,000) among non smoking children who are exposed to smoke.

(iii) Non smokers, who are exposed to second hand smoke, have an increased risk of developing lung cancer by 20-30% and coronary heart disease by 25-30%.

Tobacco industry is not like any other industry because tobacco products are the only legal consumer products in the world that, when used as intended, kill people.

b) Tobacco free environment is the best way to reduce the dangers of tobacco; as designated smoking areas have repeatedly been shown to be ineffective in protecting against exposure to tobacco smoke. There is urgent need to support and enforce 100% smoke-free indoor public places, work places and public transport facilities including smoking 100 metres away from public places.

c) There is no safe level of tobacco smoke exposure as reported by the World Health Organization Agency for Research on Cancer, 2009

Designated smoking areas or rooms, even those required to meet the most rigorous ventilation standard have repeatedly been shown to be ineffective in

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protecting against exposure to tobacco smoke². Even just 30 minutes of exposure increases the risks of heart disease. Smoke inevitably leaks into non smoking areas, ventilation does not remove secondhand smoke, and very high concentrations of dangerous chemicals and residual nicotine levels may remain in the room at least 5 hours after smoking has ceased. Furthermore, designated smoking rooms are also costly to construct, maintain and enforce

d) Tobacco smoke exposure levels can be significantly high outdoors, particularly when smokers are in close proximity to others. Smoke free outdoor spaces also may help smokers who are trying to quit, by eliminating the sight and smell of tobacco smoke, and contribute to changing social norms in communities by reinforcing to children and youth that smoking is not an acceptable behavior.

e) There is urgent need for comprehensive ban on tobacco advertising, promotion and sponsorship (TAPS) due to the following reasons:

(i) Tobacco advertising and promotion increases the likelihood of adolescent smoking initiation. A growing body of evidence shows that point of sale advertising and display encourages smoking among the youth.

(ii) Point of sale advertising also makes it harder for current users to quit.³

(iii) Implementing a ban on point on display was found to significantly reduce exposure to tobacco marketing and impulse cigarette purchases among the youth.

² (according to American Society of Heating Refrigerating and Air Conditioning Engineers, 2005)

³ As evidenced in a study carried on the effect of retail cigarette pack displays on impulse purchase and addiction 2008 February; 103 (2): 322-8.

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(iv) Tobacco advertising, promotion and sponsorship (TAPS) is effective in attracting new customers, especially the youth and undermines their attempts to quit smoking. Its marketing has also been shown to have a stronger influence on adolescent's uptake of smoking than peer pressure.

(f) There is need to support and enforce pictorial health warnings covering 75% of tobacco pack's total display area to protect children from false, deceptive and misleading descriptions on tobacco products and promote cessation among young smokers due to the fact that:

- ❖ Tobacco industry uses packaging as a promotional tool using brand imagery that is completely opposite to realities and dangers associated with tobacco use.
- ❖ Large and graphic warning labels motivate smokers to quit, discourage non-smokers especially the youth from starting, and keep ex-smokers from starting again.

(g) There is urgent need to support and enforce a ban on sale, supply and use of tobacco products (clause 15 and 16) because:

(i) About 17% of the population smoke and ¾ of these use smokeless tobacco through sniffing, sucking and chewing. Among the school going youth in Uganda, 19% of the secondary students and 35% of the students in tertiary institutions smoke.)⁴

(ii) Tobacco use among the current generation of young females (15.8%) is more than five times higher than that of adult females(3%). Every day, some 80,000-100,000 young people around the world become addicted to tobacco⁵

⁴ (Global Youth Tobacco Survey (GYTS, 2011)

⁵(World bank, 1999).

(iii) Easy access to cigarettes encourages children to experiment with cigarettes, exposing them to higher chances of getting addicted.

(iv) Early uptake is associated with subsequent heavier smoking, higher levels of dependency, a lower chance of quitting and higher mortality due to tobacco related diseases.

Therefore, the public health advocates supported the Bill and urged the House to pass it in its current form.

5.2 Advocates of Economic Growth

The advocates of economic growth, who included the Ministry of Trade and Industry, the Ministry of Agriculture, the Tobacco Industry Players, the Tobacco Farmers and some of the Political Leaders in the tobacco – growing areas, appealed to the Committee to be careful with the Bill. They argued that the Bill, if passed in its current form, will harm the economic opportunities of the country, given that:

- Tobacco earned Uganda about USD 75 Million which was received as export revenue in 2013
- Tobacco farming employs more than 60,000 farmers
- Tobacco farmers annually receive UGX 20 Billion in unsecured, interest free loans
- Tobacco farmers are paid UGX 81 Billion in crop purchase every year
- The Government receives UGX 105 Billion in taxes from the tobacco industry
- Apart from the farmers, over 10,000 people are employed by the sector in permanent and seasonal jobs, e.g. extension workers, transporters, logistics service providers, etc

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Moreover, Uganda's tobacco is mostly exported to the international markets (over 90% is exported)

The Tobacco Farmers

The tobacco farmers, as advocates of economic growth, opposed to the Bill, especially in its move to repeal the Tobacco (Control and Marketing) Act and incapacitate the tobacco buying companies from extending voluntary support to communities in form of corporate social responsibility. Using ecological and comparative reasons, the farmers in Kihiihi in Kanungu District, for example, argued that:

- soils in Kihiihi could only favour tobacco farming;
- other crops were, and could easily be, destroyed by the wild animals, tobacco being the only crop that is not eaten or destroyed by game park animals;
- tobacco was the only crop that was bringing substantial income compared to other crops, such as maize;
- it was only tobacco that was bringing farmers in direct negotiations with the tobacco buying companies before production, and this assured them steady market.

Similar views were raised by the farmers in **Bunyoro, Lango and West Nile region.**

For instance, the farmers in Hoima argued that:

- The Tobacco farmers argued that the tobacco companies were giving them fertilizers and free hybrid maize seeds ensuring food security in the area.



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- The farmers benefitted from the initial ploughing of the lands with the support from the tobacco companies.
- The farmers argued that the Bill's proposed ban on corporate social responsibility or voluntary contributions was discriminatory against tobacco industry and tobacco growing communities. They observed that communities in the tobacco growing areas were benefiting from corporate social responsibility activities by the tobacco companies. They gave an example of BAT having constructed a technical institute in Arua that was being accessed by both the children from tobacco and non-tobacco growing households.

In **Lango**, the tobacco farmers and leaders pleaded that tobacco growing had enabled the communities which had emerged from a long period of conflict and suffering to begin to heal through good income from the sale of tobacco and employment opportunities provided by the tobacco companies. They requested Parliament and Government to ensure that their source of livelihood is protected and reinforced.

The farmers indicated that from the tobacco proceeds, they had been able to take their children to schools and universities and provide for their families. They, therefore, appealed to Parliament and Government not to interfere with tobacco growing, until an alternative crop fetching better prices was introduced.

Uganda Law Society

The Uganda Law Society raised the following questions;

- What do you do to the adults who want to smoke, who are estimated to be 800,000? Why do you subject a legal business to harassment? Why do

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Ministry of Justice

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you push the majority age from 18 to 21 which contradicts the Constitution?

They argued that some of the provisions in the Bill, such as banning advertisement, banning corporate social responsibility, on pictorial health warnings on the cigarette packets, defining the minor as being a person aged 21 years and below were an infringement of the law.

5.3 Lessons Learnt from Nairobi, Kenya

The Committee sent a delegation to Kenya to benchmark Kenya's experience with tobacco control legislation. The following lessons were picked from Nairobi:

- To facilitate the implementation of the law, a Tobacco Control Fund was created
- To facilitate the transition from tobacco growing to other means of livelihood, the Minister of Agriculture was mandated under the Act to identify economically viable alternatives for tobacco growers
- The Act prohibits sale of cigarettes to persons under the age of 18 years
- Smoking is prohibited in public places except in specially designated smoking places
- Health warnings in text form cover 30% of the front and 50% of the back of the package.
- Increased taxation of tobacco products would replace the loss occasioned through banning of corporate social responsibility or voluntary contributions by the tobacco industry
- To reduce illicit trade in tobacco products, the law provided for labeling of packages for retail and wholesale to enable Kenya Revenue Authority place seals with unique identification numbers that would be used to track and trace the products.

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6.0 Observations of the Committee on Health

The Committee studied the Bill and considered the concerns raised by the various stakeholders and came to the following observations:

6.1 General Observations

1. Purpose of the Bill

The purpose of the Bill is to introduce a public health legislation that aims at protecting the citizens from the direct and indirect effect of tobacco use. As such, the Bill contains a number of measures meant to discourage smoking and make smoking undesirable.

2. Tobacco Use and Related Cancers

The Committee observed that the continuous use of tobacco products increases the risk of various cancers, with up to 75% of Lung cancer cases being attributed to it nationally. Other cancers that are linked to tobacco use include; cancer of the mouth, lips, nose and sinuses, larynx (voice box), pharynx (throat), esophagus (swallowing tube), stomach, pancreas, kidney, bladder, uterus, cervix, colon/rectum, ovary (mucinous), and acute myeloid leukemia cancer.

3. Balancing the public health objectives of the Bill and the economic interests of Uganda

The public health objectives of the Bill can be met even when the farmers continue to grow tobacco for export to the international tobacco market. This would balance the interests of public health advocates and those who would like to promote the economy and livelihoods of the tobacco farmers.

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This balancing act would promote both interests of Uganda – promoting public health and promoting the economic interests of Uganda because most of the tobacco grown in Uganda is exported to the international market abroad (more than 90%)

4. How to deal with the current smokers

To deal with the current smokers, the Committee observed that the Bill needs to provide for:

- rehabilitation programs to support cessation of smoking
- massive education and sensitization program on the dangers of tobacco use.
- Provide strict laws and punitive measures to stop active smokers from deliberately affecting non smokers.

6.2 Specific Observations and Recommendations

1. The Tobacco Control Committee

The Committee observed that the Tobacco Control Committee as proposed in clause 3 is too large. Some of the Organizations to be represented are not directly linked to the activities of the Tobacco Control Committee. These include the Ministry responsible for Foreign Affairs, the Ministry responsible for Information, the Uganda Bureau of Statistics and the Uganda Communications Commission. In regard to the Ministry responsible for the Environment, it is already represented by NEMA, while in the case of Civil Society Organizations, one representative is sufficient as opposed to two representatives.

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The Committee further observes that since the Bill intends to address public health concerns, the Tobacco Control Committee should be headed and overseen by the Ministry responsible for Health. The Committee therefore proposes that the Tobacco Control Committee be chaired by the Director General of Health Services, who is the highest technocrat in the Ministry of Health.

In regard to the Vice Chairperson of the Tobacco Control Committee, it was noted that it is a recipe for disharmony to have the Chairperson of the Tobacco Control Committee appointed and the vice chairperson elected. The Committee proposes that both positions should be by appointment.

The Committee also proposes that the Secretary to the Tobacco Control Committee should be the National Focal Person for Tobacco Control and observes that the Bill should specifically provide for this person.

The Committee recommends that:

- **The Ministry responsible for Health should be responsible for the implementation of the law and not the Office of the Prime Minister. Specifically, the Tobacco Control Committee should be headed by the Director General of Health Services.**
- **The number of members of the Tobacco Control Committee should be reduced to nine members which is a reasonable.**

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2. Prohibition of smoking in public places, workplaces and means of transport

The Bill provides that a person shall not smoke in any outdoor space within 100 meters of a public place, workplace, means of public transport or any other place that provides services primarily to a minor.

The Committee observes that a distance of 100 meters is unrealistic because in most urban places the distance between buildings is less than that. The Committee notes that 50 meters is more practical.

The Committee recommends that smoking should be prohibited within 50 meters of public places and workplaces.

3. Water Pipe Tobacco Delivery System

The Committee was concerned about the increasing health effects of a newly engineered flavored tobacco product through a water pipe (shisha) that is currently very popular among the youth. The product is scientifically proven to be even more dangerous than cigarette consumption.

The Committee recommends a total ban on the importation, manufacture, distribution, possession, use, sell or offer for sale of the water pipe tobacco delivery system, and all flavored tobacco products.

4. Comprehensive ban on tobacco advertising, promotion and sponsorship

Clause 13 of the Bill bans all forms and means of tobacco advertising, promotion or sponsorship. The Committee observes that there may be a statutory

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requirement for companies to make public some information which could easily be construed to be an advert.

The Committee recommends that the Bill should leave room to cater for situations where companies may be required to make public some information.

5. Packaging and labeling of tobacco Products

The Committee observes that the proposal to have health warnings covering at least 75% of the unit package, packet of tobacco product or outside packaging is unreasonable as it does not allow for the interests of trade mark users. It proposes that 60% would be adequate.

In addition, the Committee notes that even the WHO Framework Convention on Tobacco Control under Article 11(1) (iv) sets the minimum principal display areas at 50%.

The Committee recommends that text and pictures comprising the health warnings or messages should occupy not less than 60% of each principal display area of the unit package, packet of tobacco product or outside packaging.

6. Places in which selling tobacco is prohibited

The Tobacco Control Bill prohibits a person from selling, arranging for sale, enabling, facilitating a sale or buying tobacco or tobacco product in places listed in the Fourth Schedule to the Bill. The Fourth Schedule provides for a non-exhaustive list which includes hospitals, clinics or other health institutions and within 500 meters from those premises; educational institutions of all levels and

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within 500 meters from those premises, among others. It further stipulates that the sale of the same products is prohibited up to a distance of 500 meters from the premises.

The Committee observes that the 500 meters is not practical because buildings in many parts of the country are too close to each other.

The Committee recommends that the sale or buying of tobacco products is prohibited in the public places as listed in the fourth schedule and that the distance be dealt away with in order to achieve practical implementation.

7. Prohibition of supply of tobacco products to and by persons below 21 years.

The Bill provides that tobacco products should not be supplied to and by persons below 21 years, which category of people the Bill defines as minors. The Committee observes that prohibition of sale of tobacco products to and by minors as defined in the Bill would be in contravention of Article 257(1) (c) of the 1995 Constitution of the Republic of Uganda which defines a child as a person under the age of eighteen years.

The Committee recommends that the Bill under Clause 16 should cover persons below eighteen years and not below 21 years.

8. Repeal of the Tobacco (Control and Marketing) Act

The Committee is concerned that the Bill proposes that the Tobacco (Control and Marketing) Act, Cap. 35 be repealed with the coming into force of the

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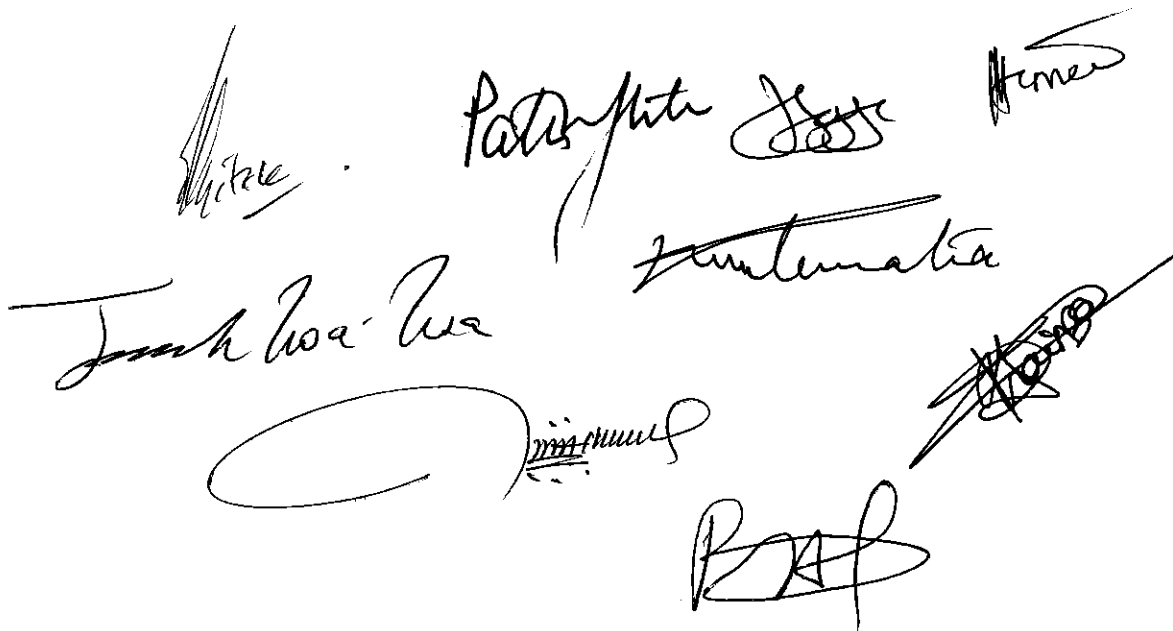
Tobacco Control Act yet the latter does not cover the growing and only covers some areas of marketing of Tobacco.

If the Tobacco (Control and Marketing) Act, Cap. 35 is repealed, it would create a vacuum in the area of growing and marketing tobacco.

The Committee recommends that Tobacco (Control and Marketing) Act, Cap. 35 be saved in as far as it does not contradict the provisions of the Tobacco Control Bill.

7.0 Proposed Amendments

In light of the foregoing account, the Committee proposes the following amendments to the Bill.



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PROPOSED AMENDMENTS TO THE TOBACCO CONTROL BILL, 2014 BY THE SECTORAL COMMITTEE ON HEALTH.

1. Clause 1: Commencement date.

Delete the entire provision.

Justification: To ensure that the commencement of the Act takes effect on its date of publication as notified in the Gazette rather than having to wait for the Minister to issue regulations appointing a date on which the Act is to come into force.

2. Clause 2: Interpretation.

(a) Insert the definition of “child” immediately after the definition of the phrase “brand name” to read as follows:

“child” means a person below the age of eighteen years;

Justification: For clarity following the amendment made to clause 16.

(b) “relevant or related tobacco control”

Delete the phrase “relevant or related tobacco control” from the interpretation section.

Justification: Consequential amendment arising from the deletion of the definition of “tobacco control policies”.

(c) “minor”

Delete the definition of minor from the interpretation section.

Justification: Consequential amendment.

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(d) "tobacco control policies"

Delete the phrase "tobacco control policies" from the interpretation section.

Justifications:

- To avoid ambiguity since the phrase is clearer enough.
- To avoid conflicting roles among various Government Ministries, Departments and Agencies.

3. Clause 3: Establishment of the Committee.

(a) Clause 3 (2)

Rephrase sub-clause (2) to read as follows;

"(2) The Committee shall consist of the following-

- (a) the Director General of Health Services, who shall be the chairperson;
- (b) a commissioner responsible for public health;
- (c) a representative of the Ministry responsible for trade;
- (d) a representative of the Ministry responsible for education;
- (e) a representative of the Ministry responsible for agriculture;
- (f) a representative of the Ministry responsible for gender, labour and social development;
- (g) Uganda National Bureau of Standards;
- (h) National Environment Management Authority; and

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- (i) one representative from civil society engaged in tobacco control nominated by a forum of organisations engaged in tobacco control.

Justifications:

- To create a reasonable size of the Committee since some of those the Ministries or organisations represented on the Committee are not directly linked to the activities of the Tobacco Control Committee and others are already represented through other organisations.
- To ensure that the Tobacco Control Committee is headed by the Director General of Health Services, who is the highest technical person in the Ministry responsible for health.

(b) Clause 3 (3)

Redraft the entire sub-clause (3) to read as follows;

“(3) All members of the Committee other than the chairperson shall be appointed by the Minister on the recommendation of their respective ministries or organisations, a third of whom shall be women.

(4) The members of the Committee other than the chairperson of the Committee shall not be below the rank of principal or its equivalent.”

Justifications:

- To ensure that there is one appointing authority to whom all members of the Committee are answerable.
- To ensure gender equity.
- The splitting of the provision is for clarity.

(c) Clause 3 (4)

Delete the entire provision.

Justification: The provision becomes redundant with the amendment made to clause 3 (3).

(d) Clause 3 (6)

Delete sub-clause (6).

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Justifications:

- (i) With the introduction of the Director General of Health Services as the chairperson of the Tobacco Control Committee, the provision becomes redundant.
- (ii) The position of the secretary to the committee has been created under the proposed clause 7.

(e) Clause 3 (7)

Substitute for sub-clause (7), the following;

“(7) The Minister shall appoint a vice chairperson from among members of the Committee.”

Justification: It is only prudent that both the chairperson and vice chairperson be appointed rather than having one appointed and the other elected.

(f) Clause 3 (9)

Delete the entire sub-clause.

Justifications:

- (i) Following the amendment made to Clause 3 (2) (a), the provision would be redundant since the Director General of Health Services is appointed.
- (ii) A qualification in public administration is not a pre-requisite for one to become a principal officer; hence the provision would not be practical.

(g) Clause 3 (10)

Delete sub-clause (10).

Justifications: The implementation of the provision is not practical.

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4. Clause 4: Tenure of office.

(a) Clause 4 (1)

Insert the words "other than the chairperson" between the words 'committee' and 'shall' appearing in line one of the provision.

Justification: Since the chairperson is designated, the tenure of office would not apply to him or her.

(b) Clause 4 (2) (a)

Redraft paragraph (a) to read as follows;

"(2) (a) at any time, before the expiry of his or her term, resign his or her office by giving written notice to the Minister and copying the chairperson of the Committee."

Justification: To harmonise the provision with the amendment in Clause 3 (3) where the appointing authority is only the Minister responsible for health.

5. Clause 5: Functions of the Committee.

(a) Clause 5 (2) (a)

Rephrase the provision to read as follows;

"(a) implement the objectives of this Act in accordance with the WHO Framework Convention on Tobacco Control (WHO FCTC) and its implementing guidelines and protocols;"

Justification: For specificity.

(b) Clause 5 (2) (c)

Rephrase the paragraph to read as follows;

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“(c) advise the Minister on policies and legislative measures relating to tobacco control;”

Justification: The Committee’s function in this regard can only be advisory.

(c) Clause 5 (2) (f)

Rephrase the paragraph to read as follows;

“(f) advise the Minister on the administration of this Act;”

Justification: For specificity.

(d) Clause 5 (2) (g)

Substitute the words ‘Prime Minister’ appearing at the end of the provision, with the word ‘Minister’.

Justification: It is a consequential amendment arising from the amendment made under clause 3 (2) (a).

6. Insert a new clause immediately after clause 6 to provide for the National Focal Point Person for Tobacco Control as follows;

“7. The National Focal Point Person for Tobacco Control.

- (1) The Minister shall designate a person within the Ministry to be the National Focal Point Person for Tobacco Control.
- (2) A person designated under subsection (1) shall not be below the rank of principal.
- (3) The National Focal Point Person for Tobacco Control shall be the secretary to the Committee.
- (4) The secretary to the Committee shall be responsible for taking all the minutes of the meetings of the Committee.
- (5) The secretary to the Committee shall perform all other duties and functions that the Committee or the Minister may assign him or her.

Frank Ho-Loa
Patricia James
Amlemaika
RAJ
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[Signature]

Justification: For clarity.

7. Clause 8: Functions of the secretariat.

Clause 8 (b)

Substitute the words 'tobacco control interventions within the Ministry and other sectors' appearing in lines two and three, with the words 'this Act'.

Justification: For specificity since the law relating to tobacco control is being enacted for that purpose.

8. Clause 11: Prohibition of smoking in public places, work places and means of public transport.

(a) Clause 11 (2) (a)

Rephrase the paragraph to read as follows;

"(a) within fifty meters of any public place, workplace, public transport terminal or any other place that provides services primarily to a child;"

Justifications:

- (i) The reduction of 100 meters to 50 meters is meant to achieve reasonable and practical distance.
- (ii) The insertion of the word 'terminal' is to avoid ambiguity.
- (iii) The substitution of the word 'minor' with the word 'child' is to ensure consistency with its usage in the existing laws.

(b) Clause 11 (2) (b) and (c)

Substitute '100 meters', with '50 meters'.

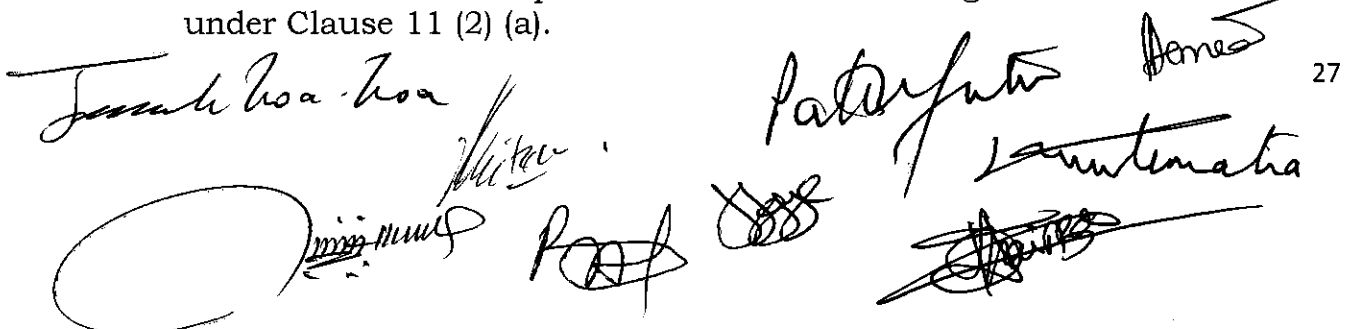
Justification: To make the distance reasonable and practical.

(c) Clause 11 (6)

Replace two months imprisonment with five months.

Justification: Consequential amendment arising from the amendment under Clause 11 (2) (a).

Tamaki Uoa
Patufu
Samtenaha
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(d) Clause 11 (7)

Delete sub-clause (7).

Justification: The enforceability of the provision is not practical.

9. Clause 12: Display of notices.

(a) Clause 12 (1)

Insert the word 'swahili' between the words 'language' and 'and' appearing in line three.

Justification: Swahili is the second official language under Article 6 (2) of the Constitution.

(b) Clause 12 (3)

Substitute ten currency points with four currency points.

Justification: To ensure that the currency points are proportionate to the term of imprisonment prescribed under the provision.

(c) Clause 12 (4)

Redraft the provision to read as follows;

"(4) A person who contravenes this section shall on subsequent conviction be liable to a fine not exceeding twelve currency points or to imprisonment for a term not exceeding six months or both."

Justification:

- To avoid ambiguity since it is not clear as to what amounts to 'continuous contravention'.
- Revocation or suspension of a licence is such a harsh punishment for that offence.

(d) Clause 12 (5)

Delete sub-clause (5).

Justification: There is no need to transfer the enforcement expenses on individual employees of a corporation since a corporation can bear its costs.

Joseph W. Njiru
Patrick J. Njiru
Amatya
POA
POA
POA
POA

10. Clause 13: Comprehensive ban on tobacco advertising, promotion and sponsorship.

(a) Clause 13 (4)

Delete the entire sub-clause (4).

Justification: The enforceability of the provision is not practical.

(b) Clause 13 (5) (a)

Substitute for the word 'Ministry' appearing in line six, the word 'Minister'.

Justification: For specificity.

(c) Clause 13 (5)

Insert a new paragraph immediately after paragraph (e) to read as follows:

"(f) publication of information required by the law"

Justification: There may be a statutory requirement for companies to make public some information which could easily be construed to be an advert.

(d) Clause 13 (7)

Substitute for 'one hundred' currency points, 'twenty four' currency points.

Justification: To make currency points commensurate with the term of imprisonment.

(e) Clause 13 (9)

Substitute the word 'shall' appearing in line two, with the word 'may'.

Justification: To allow the judicial officer to use his or her discretion in applying the provision.

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Paterson
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Walter
Paterson

(f) **Insert** a new paragraph immediately after paragraph (e) to read as follows-

“(f) publication of information required by the law”.

Justification: There may be a statutory requirement for companies to make public some information which could easily be construed to be an advert.

11. Clause 14: Packaging and labelling of tobacco products.

(a) **Clause 14 (2)**

Substitute 75% with 60%.

Justification: To ensure that the manufacturers or trademark users are left with some reasonable space on the package for their use.

(b) **Clause 14 (4)**

Substitute ‘one hundred’ currency points, with ‘twenty four’ currency points.

Justification: To make currency points commensurate with the term of imprisonment.

(c) **Clause 14 (6)**

Substitute for the word ‘shall’ appearing in line two, the word ‘may’-

Justification: To allow the judicial officer to use his or her discretion in applying the provision.

12. Clause 15: Sale and display of tobacco and tobacco products.

(a) **Clause 15 (1)**

Delete the words ‘tobacco or’ appearing in line two of the provision.

Justification: To restrict the application of the provision to tobacco products.

Joseph Nwa-Nwa Paul
Patience
Huntmaster 30
James

(b) Clause 15 (2)

Rephrase the provision to read as follows;

“(2) A person shall not import, manufacture, distribute, possess, sell, offer for sale, or bring into the country-

- (a) an electronic nicotine delivery system, including the electronic vaporization device or cartridges with nicotine-containing liquid or other substances to be vaporized;
- (b) a water pipe tobacco delivery system, including the water pipe device or the water-pipe tobacco product or other substances to be used in the water pipe delivery system;
- (c) a smokeless or a flavored tobacco product.

Justification: Due to the increasing health effects of a newly engineered flavored tobacco product through a water pipe (shisha) that is scientifically proven to be even more dangerous than cigarette consumption, there is need to ban the importation, manufacture, distribution, possession and sell of water pipe tobacco delivery system, and all flavored tobacco products.

(c) Clause 15 (4) (c)

Delete paragraph (c).

Justification: A ban on duty free sale of tobacco products, which are mostly for export only, would have little or no impact on reducing tobacco consumption in Uganda.

(d) Clause 15 (5)

Rephrase the provision to read as follows;

“(5) A person shall not import, manufacture, distribute, sell or offer for sale a unit packet of a tobacco product unless the packet is intact and contains at least 20 sticks of cigarettes or 20 sticks of cigarillos or 20 sticks of any other tobacco product or 100 grams of a tobacco product.”

Justification:

- The insertion of the words ‘at least’ is to ensure that the quantity of sticks of cigarettes prescribed is the minimum.
- To discourage the young people from buying cigarettes.

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- The deletion of the words 'tobacco' is to restrict the application of the provision to tobacco products.

(e) Clause 15 (7)

Substitute 'one hundred' currency points, with 'twenty four' currency points.

Justification: To make currency points commensurate with the term of imprisonment.

(d) Clause 15 (9)

Substitute for the word 'shall' appearing in line two, the word 'may'.

Justification: To allow the judicial officer use his or her discretion in applying the provision.

13. Clause 16: Prohibition of supply of tobacco products to and by minors.

(a) Clause 16 (1)

Delete the entire sub-clause (1).

Justification: The provision is not within the scope of the Bill.

(b) Clause 16 (2)

Rephrase the provision to read as follows;

"(2) A person shall not sell or offer for sale a sweet, snacks, toy, or any other object in the form of tobacco or a tobacco product including an object which resembles, mimics, or imitates a tobacco to a child."

Justification:

- A twenty one year old person cannot be barred from engaging in the business of importation, manufacture, distribution or sale of tobacco products.
- To ensure that persons below 18 years are protected from accessing tobacco products.

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(c) **Clause 16 (4)**

Substitute 'one hundred' currency points, with 'twenty four' currency points.

Justification: To make currency points commensurate with the term of imprisonment.

(d) **Clause 16 (5) (c)**

Substitute the words 'six months', with the words 'one year'.

Justification: To make the provision more deterrent.

(e) **Clause 16 (6)**

Substitute the word 'shall' appearing in line two, with the word 'may'.

Justification: To allow the judicial officer use his or her discretion in applying the provision.

14. Clause 17: Regulation of tobacco products.

(a) **Clause 17 (1)**

Insert the words 'or other disclosure' between the words 'emissions' and 'requirements'.

Justification: To broaden the provision.

(b) **Clause 17 (2)**

Delete the provision.

Justification: To avoid unnecessary repetition.

(c) **Clause 17 (3)**

Substitute 'one hundred' currency points, with 'twenty four' currency points.

Justification: To make currency points commensurate with the term of imprisonment.

Frank Wa: Way
Patricia
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Gene
Montemata

(d) Clause 17 (4)

Substitute the word 'may' appearing in line two, with the word 'shall'.

Justification: To ensure the application of the provision is made mandatory.

(e) Clause 17 (4) (c)

Substitute the words 'six months', with the words 'one year'.

Justification: To make the provision more deterrent.

(f) Clause 17 (5)

Substitute the word 'shall' appearing in line two, with the word 'may'.

Justification: To allow the judicial officer use his or her discretion in applying the provision.

15. Clause 18: Duty of Government.

(a) Clause 18 (3)

Substitute the words 'to the' appearing in the third line, with the words 'shall be made'.

Justification: For Clarity.

(b) Clause 18 (4)

Substitute the words 'in a timely manner' appearing at the end of the provision, with the words 'within three weeks'.

Justification: For specificity.

16. Clause 19: Government interactions with the tobacco industry.

Rephrase the provision to read as follows;

"A person who contributes to the formulation, implementation or monitoring of public health policies on tobacco control shall not interact with the tobacco industry except where it is strictly necessary for effective regulation of the tobacco industry or the tobacco product and such interaction must be transparent."

James Leach ~~James Leach~~ *James*
Patrycja
Prof *Thulemeke*

Justification:

- The use of the words 'body or entity' are unnecessary since the word person suffices.
- The provision lacks specificity in the use of the words 'could or could contribute' and therefore likely to lead to implementation challenges.
- The words 'administration' and 'enforcement' are redundant since the word 'implementation' is sufficient.

19. Clause 20: Prohibition on partnerships and endorsements of the tobacco industry.

(a) Rephrase the provision to read as follows;

"A person who contributes to the formulation, implementation or monitoring of public health policies on tobacco control shall not participate in, support, endorse or accept-

Justification: Consequential amendment arising from the amendment made to Clause 19.

(b) Clause 20 (b)

Delete the entire paragraph.

Justification: The provision is redundant.

(c) Clause 20 (d)

Delete the words 'proposal, drafts or' appearing at the beginning of the paragraph.

Justification: To avoid inconsistencies with Clauses 18 (2) and 19.

20. Clause 21: Prohibition on voluntary contribution from the tobacco industry.

Rephrase the provision to read as follows;

Frank Uoa Uoa
Patufulu Hemo
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"A person who contributes to the formulation, implementation or monitoring of public health policies on tobacco control shall not solicit or accept contributions from the tobacco industry."

Justification: Consequential amendment.

21. Clause 22: Prohibition of incentives or privileges to tobacco businesses.

(a) **Rephrase** the provision to read as follows;

"A person who contributes to the formulation, implementation or monitoring of public health policies on tobacco control shall not-

- (a) provide any incentive, benefits, privileges or preferential tax exemptions to the tobacco industry; or
- (b) give any incentive or offer a privilege related to marketing of tobacco products.

Justification:

- Consequential amendment.
- To restrict the application of paragraph (d) to tobacco products and not tobacco growing or production.

22. Clause 23: Prevention and management of conflict of interest.

(a) **Clause 23 (1)**

Rephrase the provision to read as follows;

"A person who contributes to the formulation, implementation or monitoring of public health policies on tobacco control shall not engage in any activity that may create a conflict of interest."

Justification:

- Consequential amendment.

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- The deletion of the word 'occupational' appearing in line four is to broaden the provision.

(b) Clause 23 (2) (b)

Delete the entire paragraph.

Justification: It is redundant.

(c) Clause 23 (3)

Delete the entire provision.

Justification: The restriction is unfair and unnecessary.

(d) Clause 23 (4)

Delete the entire provision.

Justification: The restriction is unfair and unnecessary.

(e) Clause 23 (5)

Delete the entire provision.

Justification: It is an unfair requirement.

(f) Clause 23 (6)

Delete the entire provision.

Justification: It is an unfair requirement.

(g) Clause 23 (7)

Insert the word 'liable, on conviction to be' immediately after the words 'shall be' in line two.

Justification: To ensure that before a person is punished for the breach of the provision, he or she goes through full criminal trial.

James K. ...
Patricia ...
Hens
37
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(h) Clause 23 (7) (e)
Delete paragraph (e).

Justification: It is redundant.

23. Clause 26: Places where authorised officers may enter.

(a) Clause 26 (1)

Insert the words 'Subject to section 28 (1)' at the beginning of the provision.

Justification: To ensure that before a search is carried, the authorised officer should first obtain a search warrant.

(b) Clause 26 (1) (a)

Delete the word 'tobacco' appearing at the beginning of the paragraph.

Justification: For consistency with the object of the Bill.

24. Clause 27: Inspection powers of authorised officers.

Clause 27 (1) (b)

Delete the word 'tobacco' appearing in line 3 of paragraph (b) and wherever the word appears under Clause 27.

Justification: For consistency with the object of the Bill.

25. Clause 28: Powers to issue warrant.

(a) Clause 28 (1)

Delete the words 'judge of the High Court' appearing in lines one and two and the word 'judge' in line five.

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Justification: To ensure that search warrants are issued by the Magistrate courts and not both the High Court and the Magistrate courts.

(b) Clause 28 (1) (b)

Delete the entire paragraph.

Justification: Following the amendment made to Clause 26 (1), the provision becomes redundant.

(c) Clause 28 (2)

Delete the entire sub-clause.

Justification: To avoid inconsistencies with clause 26 (1) which leaves time for the search open.

26. Clause 31: Certificate of analysis.

Delete the word 'tobacco' appearing in line one of the provision.

Justification: Consequential amendment.

27. Clause 33: Obstruction.

Clause 33 (2)

Delete the entire sub-clause (2).

Justification: It is redundant.

Joseph Nwa-Nwa ~~*[Signature]*~~
[Signature] *Paterson* *Hester*
[Signature] *[Signature]* *[Signature]* *[Signature]*

28. Clause 34: Seizure.

Delete the word 'tobacco' appearing in line one of the provision.

Justification: Consequential amendment.

29. Clause 35: Storage and removal.

Delete the word 'tobacco' appearing in line one of the provision.

Justification: Consequential amendment.

30. Clause 36: Interference with a seized product or item.

Delete the word 'tobacco' appearing in line two of the provision.

Justification: Consequential amendment.

31. Clause 37: Restoration of seized product or item.

Delete the word 'tobacco' appearing in line one of the provision.

Justification: Consequential amendment.

32. Clause 38: Order of restoration.

Delete the word 'tobacco' appearing in line one of the provision and wherever the same word appears under the provision.

Justification: Consequential amendment.

33. Clause 39: Forfeiture.

James Noa Noel
Patrycja
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Antonia
PAF

Delete the word 'tobacco' appearing at the beginning of the provision and wherever the same word appears under the provision.

Justification: Consequential amendment.

34. Clause 40: Offences by legal entities.

Delete the entire provision.

Justification: To avoid unnecessary repetition since the same offences are already provided for in the Bill.

35. Clause 41: Offences by or relating to officers and persons employed to carry out the provisions of this Act.

Substitute 'fifty' currency points, with 'twenty four' currency points.

Justification: To make currency points commensurate with the term of imprisonment.

36. Clause 42: Making false or misleading statements.

(a) Clause 42(1)

Redraft the entire sub-clause (1) to read as follows;

"(1) A person who-

(a) makes a statement to an authorised officer or the Committee that is false or misleading in a material particular; or

(b) omits from a statement made to an authorised officer or to the Committee any matter or thing without which the statement is misleading in a material particular,

commits an offence and is liable, on conviction to a fine not less than twenty four currency points or to imprisonment for a term not exceeding one year or both.

James Usa Usa
Mirza
Pattipati
PCP
Amma

Justification:

- For clarity.
- To ensure that the currency points are proportionate to the provided term of imprisonment.

(b) Clause 42 (2) (b)

Substitute the words 'six months', with the words 'one year'.

Justification: To make the provision more deterrent.

37. Clause 44: Minister to designate non-smoking areas.

Delete the entire provision.

Justification: It is redundant since the provisions on indoor and outdoor public smoking are sufficient.

38. Clause 47: Transitional.

Redraft the provision to read as follows;

"A manufacturer, supplier, retailer or, an importer or exporter of a tobacco product shall comply with the requirements of this Act within one year of commencement of this Act."

Justification:

- For clarity.
- To ensure that the manufacturers, suppliers, retailers, importers and exporters of tobacco products are given reasonable time within which to comply with this Act.

39. Clause 49: Repeal.

Rephrase the entire provision to read as follows;

"49. Saving Provision.

Any law existing immediately before the coming into force of this Act relating to tobacco or tobacco product shall have effect subject to such modifications as may be necessary to give effect to this Act; and where any such law conflicts with this Act, the provisions of this Act shall prevail."

Justification: To ensure that no vacuum is created since the Tobacco Control Bill deals with a different subject matter altogether.

Joseph Awa - Uoa
Patryketa Hemo
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Antonia
PPF

40. Second Schedule.

Delete the words 'but not limited to' appearing in the sentence after the heading of the Schedule.

Justification: To avoid unnecessary repetition.

41. Fourth Schedule: Non-exhaustive, indicative list of places in which the selling of tobacco product is prohibited.

Delete the distance of 500 meters prescribed under the Fourth Schedule.

Justification: To achieve practical implementation.

42. Fifth Schedule: Meetings of the Committee.

(a) Paragraph 1

Substitute the word 'seven', appearing at the end of line one of the first paragraph, with the word 'five'.

Justification: Having reduced the size of the Committee, five members would be a reasonable quorum to raise.

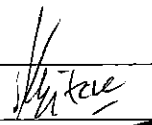

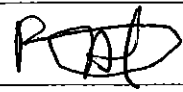
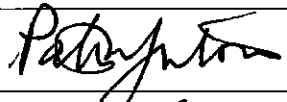
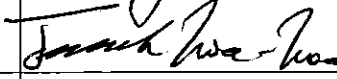
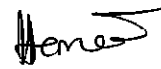


(b) Paragraph 9

Delete the entire paragraph 9.

Justification: It is a repetition since the same provision appears under clause 6 (2).

Handwritten signatures and initials:
- *John Wa-hoa*
- *Patipito*
- *Antemata*
- *George*
- *PAP*
- *James*
- *Minimund*

**MEMBERS OF THE COMMITTEE ON HEALTH THAT ENDORSED THE REPORT OF
THE COMMITTEE ON THE HEALTH ON THE TOBACCO CONTROL BILL, 2014**

No	Name	Constituency	Party	Signature
1	Hon. Dr. Bitekyerezo Medard	Mbarara Muni	NRM	
2	Hon. Lematia Ruth Molly	Maracha	NRM	
3.	Hon Atim Joy Ongom	Lira	Ind	
4	Hon Barumba Rusaniya	Kiruhura	NRM	
5	Hon Betty Aol Ochan	Gulu	FDC	
6	Hon Dr. Michael Bayigga Lulume	Buikwe South	DP	
7	Hon Dr. Patrick Mutono Lodoi	Butebo	NRM	
8	Hon Dr. Twa-twa Mutwalante. J	Iki-Iki	NRM	
9	Hon Egunyu Nantume Jennifer	Buvuma	NRM	
10	Hon Femiar Wadada	Sironko	FDC	
11	Hon Khainza Justine	Bududa	NRM	
12	Hon Rhona Ninsiima	Kabale Mun	Indep	
13	Hon. Iriama Margaret	Moroto	NRM	
14	Hon. Kabasharira Noame	Ntungamo	NRM	
15	Hon. Katwesigye Oliver Koyekyenga	Buhweju	NRM	