



Brussels, 3rd January 2007

Dear Jules Maaten, dear John Bowis,

We are deeply concerned that you have agreed to co-host a British American Tobacco (BAT) event in the European Parliament on 10 January 2007 and we are writing to both of you to ask you to reconsider your support for this event.

We have been invited to the stakeholder dialogue session as part of BAT's 2006 Social Reporting process but will not be attending for the following reasons.

In his invitation letter, Mr Telička encourages public health NGOs to engage with BAT's social responsibility process even if they 'regard the tobacco industry with deep suspicion and are extremely wary of any involvement with its representatives'. Our organisations do not consider the tobacco industry with 'deep suspicion'; rather we have clear evidence to suggest that the organisation cannot be trusted to deliver on social responsibility.

There is considerable evidence to suggest that BAT does not meet even the most basic requirements of the UN Global Compact on corporate social responsibility.¹ This is outlined in the Framework Convention Alliance letter to the UN attached. We would also refer you to the ASH UK/Christian AID/Friends of the Earth reports referred to in footnote 6, which detail BAT's contradictions in terms of corporate social responsibility.

We would also like to draw your attention to two recent events in Australia involving BAT, which we find of particular concern.

On 14 November 2006, the Australian Competition and Consumer Commission (ACCC) instituted court proceedings against BAT Australia for its failure to comply with Australian legislation on warning labels on cigarette packs.² As the MEP who piloted the 2001 EC Tobacco Products Directive through the European Parliament and who was responsible for amending the Commission proposal to include stronger graphic warning labels, we are sure that Mr Maaten will agree that BAT's refusal to comply with national legislation on tobacco warning labels is unacceptable and in defiance of the wishes of elected lawmakers.

¹ See <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>.

² See <http://www.accc.gov.au/content/index.phtml/itemId/773644> for details of the referral

This case comes after the ACCC successfully took action against BAT in 2005 for its failure to comply with Australian legislation outlawing the use of the terms “light and mild”, another provision introduced in the 2001 EC Tobacco Products Directive.³

In an even more recent development, lawyers who acted on behalf of BAT Australia in a claim for damages from a lung cancer patient were referred to the Director of Public Prosecutions in the Australian state of Victoria on 20 December 2006.⁴ The referral came after an internal inquiry at the law firm involved found that partners representing BAT had engaged in professional and potentially criminal misconduct relating to the destruction of documents prejudicial to BAT’s defence. The inquiry was started after a Supreme Court Judge said he was satisfied that such behaviour had taken place and struck out BAT’s defence in 2002. Ten days before the referral to the DPP, BAT’s lawyers threatened legal action against one of our tobacco control colleagues in Melbourne, Jonathan Liberman, Director of Legal Affairs at the Cancer Council of Victoria. They were attempting to stop him, and the family of the now deceased cancer patient, from making public the findings of the internal inquiry.⁵ Such tactics by a large multi-national are designed to intimidate effective and highly respected public health organisations and campaigners and are yet more evidence of BAT’s casual relationship with ethical behaviour.

The Framework Convention on Tobacco Control, FCTC, which has been ratified by 141 countries to date, including 25 of the EU 27, excludes the involvement of the tobacco industry in framing tobacco control policy precisely because the industry has fought for many years to undermine tobacco control, as industry documents uncovered through litigation in the US have revealed. BAT, in particular, fought to block the development of the FCTC, and has campaigned to try to discredit research from WHO.⁶ In 2000, the UK Parliament’s House of Commons Health Select Committee criticised BAT for its lack of a responsible approach to the FCTC during the negotiations and in particular for its ‘cheap jibes’ about WHO⁷.

It is also worth noting that the preamble to the FCTC recognises, “*the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts*”. Article 5.3 goes on to state, “*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.*”

³ See <http://www.accc.gov.au/content/index.phtml/itemId/683582> for details of the undertaking enforced against BAT

⁴ See <http://www.theaustralian.news.com.au/story/0,20867,20960319-23289,00.html>

⁵ See: <http://www.theage.com.au/news/national/tobacco-giant-gags-cancer-council/2006/12/08/1165081153111.html>

⁶BAT’s Big Wheeze <http://www.christian-aid.org.uk/indepth/404bat/batbigwheeze.pdf>

BAT in its own words 2005: the alternative British American Tobacco social report. Published by ASH, Christian Aid and Friends of the Earth. London, April 2005.

http://www.christian-aid.org.uk/indepth/504bat/bat_report.pdf

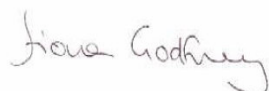
⁷ <http://www.publications.parliament.uk/pa/cm9900/cmselect/cmhealth/27/2702.htm>

It is likely that the next Conference of the Parties in July 2007 will give the green light to the development of Article 5.3 guidelines. The organisations listed below will be supporting this initiative and asking the Parties to consider whether the type of event planned for 10 January is consistent with their obligations under Article 5.3 FCTC.

In view of BAT's activities, we trust that you can appreciate our stance. We are disappointed that you plan to host the BAT event in the European Parliament, particularly as you are both strong advocates for health improving policies in the European Union. We strongly urge you to reconsider lending your support to the event and would be happy to meet with you to discuss this matter further. This would be pertinent in the context of the current FCTC discussions on the negotiation of protocols on advertising and smuggling.

We look forward to hearing from you.

Yours sincerely,



ERS Policy Adviser

On behalf of

Deborah Arnott, Director, ASH UK

Jean King, Director of Behavioural Research and Tobacco Control, Cancer Research UK

Yves Martinet, President, Comité National Contre le Tabagisme

Luk Joossens, Advocacy officer, European Cancer Leagues

Susanne Logstrup, Director, European Heart Network

Lara Garrido Herrero, Secretary General, European Public Health Alliance

Enclosed:

BAT invitation

BAT in its own words, BAT, 2005

BAT's big wheeze, 2004

FCA response to BAT smuggling submission, 2006