



FACTSHEET 2: THE WRONG MEDICINE

The impact of the illicit tobacco trade on public health objectives

Addressing illicit trade is not just an economic imperative but a critical public health priority. Only by bringing the tobacco market back under proper regulatory control can South Africa hope to implement effective measures to reduce smoking rates and protect public health.

The proliferation of illicit tobacco in South Africa presents a significant obstacle to achieving the country's public health objectives, particularly in reducing the incidence of smoking.

Despite South Africa's efforts to implement stricter tobacco control measures, we face the alarming reality that due to illicit trade, annual cigarette consumption has increased from 30.5 billion sticks in 2013 to 37 billion in 2023. More troubling is the fact that the proportion of cigarettes on which taxes were paid has plummeted from 20.5 billion sticks in 2013 to a mere 13 billion in 2023.

This surge in illicit trade, now estimated to account for around 70% of the market, directly undermines South Africa's public health initiatives. The availability of cheap, illicit cigarettes – some selling for as little as R5 a pack – negates the impact of fiscal measures designed to reduce consumption.

It also increases access for youth, directly contradicting South Africa's efforts to prevent underage smoking.

The unlawful Covid-19 tobacco ban, while aimed at public health protection, entrenched illicit market channels, exacerbating an already critical situation. This unintended consequence highlights **the complex interplay between policy decisions and market dynamics in the tobacco sector**.

The tobacco ban serves as a real life example of how punitive regulation in a market with high levels of illicit trade and weak enforcement will not work and will ultimately result in more illicit trade and higher overall cigarette consumption.

Impact of the proposed legislation on the market

While the proposed Tobacco Products and Electronic Delivery Systems Control Bill (TCB) is well-intentioned in its aim to improve public health, several of its provisions risk further fuelling illicit trade. Without effectively tackling this issue, any new regulations will likely prove ineffective and potentially counterproductive. We must halt the current downward spiral and fix the illicit trade problem first.

For example, the introduction of plain packaging, though designed to reduce the appeal of tobacco products, will inadvertently benefit illicit traders by commoditising the product and driving competition solely on price. In addition, it will create a counterfeiting issue as illicit manufacturers will capitalise on the fact that the majority of brand identifiers will be removed.

Similarly, granting broad and unchecked powers to the Minister of Health to regulate every aspect of the products could create new opportunities for illicit operators to meet ongoing consumer demand.

For example, international experience shows that flavour bans that are introduced in markets with weak enforcement cause illicit trade in flavoured products to proliferate.

The current trajectory of illicit trade and the proposed legislation poses significant risks across multiple fronts for:

1. Public health

The proliferation of illicit cigarettes directly undermines South Africa's health objectives. As consumption of these unregulated products continues to rise, the country faces:

- Increased overall cigarette consumption, contrary to its goal of reducing smoking;
- A growing risk of underage smoking due to the widespread availability of cheap, illicit cigarettes; and
- Smokers opting for cheap illicit cigarettes and not considering harm-reduced alternative products (i.e. the balance of all research and data shows that products such as vapes are considerably less harmful when compared to cigarettes).

2. The South African economy

The dominance of illicit trade has already created a parallel economy in South Africa outside of fiscal control. Based on what was observed during the Covid-19 tobacco ban, there is no question that a parallel economy will also establish itself which is outside of regulatory compliance and control. There is a likely risk of the entire market being overtaken by criminal syndicates, leading to billions of rands being siphoned out of the formal economy and also leaving the country -- as well as all current and future fiscal and regulatory policy steps having absolutely no impact on public health.

3. The legal tobacco industry

The unchecked growth of illicit trade poses an existential threat to the legal industry. By the end of this administration's term, there could be very little of the legal industry left to regulate. The entire legal value chain, from farmers, processors and manufacturers, faces decimation, resulting in significant job losses and reduced economic contribution.

Based on what was observed during the tobacco ban, the TCB in its current form is likely to turn into another own goal for Government.

The way forward

To address these challenges and to truly achieve South Africa's public health goals, we propose the following actions:

1. Undertake a thorough Socio-Economic Impact Assessment (SEIAs) and cost-benefit analysis of the revised TCB, accounting for significant market changes since 2018. This will provide crucial insights into the potential consequences of proposed regulations on public health, the economy, and society.
2. Submit the TCB to NEDLAC for a comprehensive review, ensuring all stakeholders have input. This process will align the Bill with current market realities and socio-economic contexts, including discussions on harm reduction strategies.
3. Implement practical strategies that prove to effectively combat illicit trade before any new legislation is enacted. This includes prioritising enforcement against illicit manufacturers and implementing a robust digital track-and-trace system for tobacco products (to date, after 11 years, South Africa has still not ratified the Protocol to Eliminate Illicit Trade in Tobacco Products).
4. Amend the Bill for a sensible, evidence-based framework: Based on NEDLAC review and SEIAS findings, amend the Bill to create a balanced regulatory framework. This should address public health concerns while considering economic impacts and illicit trade risks, ensuring proportionate regulation of reduced-risk products.

In conclusion, addressing illicit trade is not just an economic imperative but a critical public health priority.

Only by bringing the tobacco market back under proper regulatory control can South Africa hope to implement effective measures to reduce smoking rates and protect public health.

The country's policies must evolve to address this complex challenge, ensuring that its efforts to control tobacco use are not undermined by a thriving illicit market – and nor do they facilitate the growth of that market.

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