

FACTSHEET 5: HIDING FROM THE TRUTH

Why a display ban on tobacco products will only help the illicit dealers

South Africa's informal retail sector simply does not have the infrastructure to 'hide' products under various types of counters used in informal trade, as would be required by the display ban on tobacco products proposed in the Tobacco Control Bill (TCB). Implementing this approach will effectively criminalise hundreds of thousands of informal traders trying to make a living – and stimulate illicit cigarette sales even further

What is a retail display ban?

Retail display bans are the most extreme form of point of sale restrictions on tobacco products.

These bans typically involve the total concealment from sight of relevant products, usually with doors or shutters covering the front of the tobacco and other relevant units. Promotional product materials at points of sale are normally also prohibited, leaving the only information available about the products being a list of brands stocked with their associated price.

Why have retail display bans been implemented in some countries?

Regulators appear to favour retail display bans because of a belief that displaying tobacco products entices consumers to purchase these products. As a result, regulators believe that these bans will assist with reducing tobacco consumption.

But in 2017, Europe Economics analysed whether there was credible statistical evidence supporting claims that retail display bans have reduced the prevalence of smoking or consumption of cigarettes.

The report concluded that, “*there is no evidence from these data that display bans have been statistically associated with a reduction in smoking prevalence in the general population in European countries*”.

Why should South Africa continue to display tobacco products and electronic delivery systems?

Freedom of expression and the right to engage in a lawful business, as well as intellectual property rights, are fundamental rights guaranteed by the South African Constitution. These rights will be infringed by a retail display ban.

Retail product display is an essential component of brand differentiation, which is a vital feature of an open, competitive market. Without this, products become commoditised.

SMEs – a sector that South Africa should support and encourage wherever possible – such as tobacconists, vape shops, corner stores, cafés and small supermarkets, not to mention informal traders, will be negatively impacted by these bans. They will need to make structural changes to their stores, at their own cost, despite their very small overall profit margins.

South Africa's informal retail sector, which has thousands of table-top hawkers and small spaza shops, simply **do not have the infrastructure** to 'hide' products under their counters. Implementing this restriction will effectively criminalise thousands of informal traders trying to make a living.

Moving products 'under the counter' will create **new opportunities for illicit traders**, making it much easier to infiltrate legitimate trade channels with counterfeit and contraband product. It will also make it harder for enforcement authorities to determine whether and where illicit tobacco products are sold.

Removing the **last remaining form of communication on tobacco products** at the point of sale will lead to consumers making their purchasing decisions based solely on price.

This is likely to lead to consumers moving to cheap, illicit products – undermining the objective of excise taxes and other government measures to reduce consumption.

Even today, with the South African illicit market as big as it is (the illicit market is far larger than the legal market), consumers can find illicit cigarettes for as low as R5 per pack of 20s, compared to legal cigarettes. This is way below the minimum collectible tax of R25.05 on a pack of 20s.

In conclusion...

South Africa's informal sector doesn't have the infrastructure to cope with a display ban, nor can it afford it.

Such a ban will also be impossible to enforce given that more than 80% of all cigarettes are sold in the informal sector.

Such a ban would create new opportunities for illicit traders, and increase the criminal networks' market share even further. Not to mention the fact that it would infringe on the Constitutional right to engage in a lawful business, as well as on intellectual property rights.

It just doesn't make sense.

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