



# #JUULGATE Nicotine industry documents highlight the need for greater transparency in public health policy

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# Summary

A [cache of thousands of documents](#) released following lawsuits against American vaping company JUUL raises important questions about the influence tobacco and vaping companies have exerted on public health policy in Aotearoa New Zealand.

In this Briefing, we examine key JUUL documents and consider evidence suggesting the New Zealand First party has engaged inappropriately with tobacco companies. We conclude that the Prime Minister should launch an independent public inquiry into the tobacco industry's influence on public health policy and strengthen regulation of corporate lobbying to end tobacco companies' ability to influence public health policy.

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## Tobacco industry influence

Because smoked tobacco products cause serious and fatal illnesses, and are highly addictive, governments have regulated their visibility, affordability and appeal.<sup>1</sup> Many have adopted recommendations from the World Health Organization Framework Convention on Tobacco Control (FCTC),<sup>2</sup> which Aotearoa New Zealand (henceforth Aotearoa) [ratified on 27 January, 2004](#).

As well as advocating measures that reduce both demand for tobacco products and the supply of these, the FCTC requires Parties to prevent tobacco companies' influence on policy (see [Appendix](#)). Article 5.3 notes that Parties "*setting and implementing their public health policies with respect to tobacco control...[shall] protect policies from the commercial and other vested interests of the tobacco industry in accordance with national law*". Principle 1 of the Article 5.3 Implementation Guidelines explains why governments must safeguard policy from the tobacco industry's influence, noting: "*There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests*".<sup>3</sup>

Yet despite the FCTC's guidelines, researchers have revealed on-going efforts by tobacco companies to influence policy, via lobbying, submissions and astro-turfing, and by funding "interest" groups.<sup>4,5</sup> Although the Tobacco Industry Interference Index, which scored Aotearoa highly in 2023, implies we have withstood tobacco industry interference,<sup>6</sup> recent analyses now suggest otherwise.<sup>1,7-10</sup> The JUUL documents provide further evidence reinforcing these concerns.

## The JUUL documents: Tobacco companies' relationship with political parties and politicians

The JUUL collection contains [market surveys](#) and [stakeholder maps](#) that discuss strategic business opportunities within Aotearoa; these documents also comment on the politicians or political parties that could facilitate these opportunities. Table 1 contains quotations from the documents, which describe how JUUL staff viewed Aotearoa's market and outlines alleged interactions between tobacco companies and the New Zealand First party or politicians.

**Table 1: JUUL's analysis of Aotearoa's market opportunities and tobacco companies' reported interactions with the NZ First party**

Document reference	Document title	Quotations
<b>Analysis of Aotearoa's marketplace</b>		
JLI10683667	<a href="#"><u>JUUL Tier 1 Market Survey New Zealand</u></a> (August 2018)	Smoking prevalence has declined due to: <i>"price hikes, smoking bans and denormalization."</i> <i>"There is an opportunity in New Zealand to achieve three things: 1) positioning best-in-class vaping products in the market; 2) reduced tax on vaporizers and non-combustibles; and 3) populating the Australian market with success stories."</i>
<b>Alleged interactions between NZ First party and politicians and tobacco companies</b>		
JLI10683667	<a href="#"><u>JUUL Tier 1 Market Survey New Zealand</u></a> (August 2018)	<i>"...in the past few months, there has been increased chatter of vaporizers and heated products as being part of the roadmap [sic] with the involvement of New Zealand First."</i> <i>"NZ First's leader, Winston Peters, in his capacity as acting Prime Minister during Prime Minister Jacinda Ardern's maternity leave, randomly criticized how the increases in the tobacco excise tax over the years contributed to the rise in illicit trade in tobacco as well as violence and thefts in "dairies"... using talking points from Imperial. This clearly shows that Imperial has worked to solidify its relationship with NZ First"</i>
JLI21268343	<a href="#"><u>World Alert</u></a> (July 25, 2018)	<i>"New Zealand Acting Prime Minister Winston Peters said July 23<sup>rd</sup> that [the] high price of tobacco products is leading to murders and assaults."</i>
JLI10686632	<a href="#"><u>JUUL approach to market launch</u></a> (January 2019)	<i>"The party [NZ First] has used Imperial's [Imperial Tobacco New Zealand] talking points on excise tax, where it does not support tax increases behind tobacco".</i>
JLI45699429	<a href="#"><u>JUUL GA Strategy v2 010319</u></a> (February 2019)	PMI [Philip Morris International] had allegedly <i>"given [a] draft piece of regulation to the Government's coalition partner New Zealand First. New Zealand First has undertaken to put that draft into the policy mix. This is supposed to be secret".</i>

JLI80111551  
JUUL Stakeholder  
Map v2 130319  
(March 13 2019)

PMI reportedly *"Has reached out to NZ First to try and secure regulation to advantage IQOS."*  
NZ First leader, Winston Peters described as: *"Very powerful. Has a relationship with PMI . Positively disposed. Spoken out against tobacco taxes. Lifetime smoker, now on HEETS [the tobacco sticks used in PMI's IQOS product]."*  
*"Any regulation he [Mr Peters] champions is likely to be very industry friendly and highly geared towards commercial interests in the sector".*  
Clayton Mitchell described as *"Gatekeeper for Winston Peters"* reported to have *"A relationship with PMI."*  
Shane Jones described as *"Quite likely to take over from Winston Peters. Complete advocate for Māori. Supports companies that support him. Known to respond to relationship building efforts on the part of companies."*

These documents raise questions about New Zealand First's interactions with two tobacco companies: PMI and Imperial Tobacco. The reported links, which include alleged use of tobacco companies' "talking points" and a purported undertaking to put material prepared by a tobacco company "into the policy mix", imply tobacco companies have influenced public health policy through these interactions.

New Zealand First leader, Winston Peters, has dismissed the links as historical, given they were written when Labour was in government; he described [Radio NZ's \(RNZ\) story](#) as a *"'hot reckons' attack piece"* that was *"old, stale, repetitive, and utterly baseless"*.

However, Mr Peters' response contains important contradictions and omissions. He calls the documents historic, yet credits NZ First with smokefree policy introduced in 2020, when the documents were current. Rather than challenge the documents, his statement reinforces concerns about the party's ties to the tobacco industry at that time. Furthermore, given policy development often occurs over a long period, relationships tobacco companies built in 2018-2019 may continue to exert influence on regulations proposed, or repealed, years later. The imminent release of new JUUL document tranches may extend understanding of these associations.

Mr Peters claimed: *"multiple government departments have themselves proactively reached out to, and met with, 'big tobacco' for direct feedback and advice on tobacco legislation"*. If correct, his comment suggests widespread and systemic failures to meet New Zealand's obligations under FCTC article 5.3 and underlines the seriousness of the problem.

More recently, New Zealand First Associate Health Minister Casey Costello has repeatedly denied any engagement with tobacco companies. Table 2 contains comments from Mrs Costello, which include statements made in Parliament and to the media.

**Table 2: Associate Health Minister Casey Costello's statements**

Date	Document reference and title	Quotations
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27 February 2024	<b>Hansard: <a href="#">Smokefree Environments and Regulated Products Amendment Bill — In Committee—Part 2</a></b>	<b>Hon CASEY COSTELLO (Associate Minister of Health):</b> <i>"I'm more than happy to respond to the member regarding my engagement with the retail sector, which I did have none in reference to that [sic]; I have not met with any lobbyists, tobacco lobbyists, or any tobacco organisations—and I provide that assurance repeatedly. I have met with Action on Smoking and Health on two occasions, and I have met just this last week with the Cancer Society, and I will continue to do so."</i>
23 July 2024	<b>Hansard: <a href="#">Question No. 8—Health</a></b>	<b>Hon CASEY COSTELLO (Associate Minister of Health):</b> <i>"There is no relationship with the tobacco industry. We are committed to a programme of work, and we will achieve Smokefree Aotearoa 2025—highly likely that will be achieved this year."</i>
22 August 2024	<b>Hansard: <a href="#">Question 7 - Health</a></b>	<b>Hon CASEY COSTELLO (Associate Minister of Health):</b> <i>"Yet again the member reads a news story and decides I care one iota about what the tobacco industry feels or believes."</i>
28 August 2024	<b>Hansard: <a href="#">Question 12</a></b>	<b>Hon CASEY COSTELLO (Associate Minister of Health):</b> <i>"I'd just like to add that the member and some of her colleagues are fixated on claiming that I am connected to the tobacco industry. I want to again state to this Chamber: that is not true. I can state unequivocally I have never had any involvement or engagement with the tobacco industry. If the Opposition continues their smear and soundbite campaign, they can continue to do that and they will be judged on the fact that they will be unable to find any proof."</i>
24 Sept 2024	<b>1 News: <a href="#">Govt anti-smoking but 'not necessarily anti-nicotine' - associate minister</a></b>	<i>"There has been no association with the tobacco industry, and that has not been where I have gone to for advice," she [Mrs Costello] said.</i>
24 Sept 2024	<b>RNZ: <a href="#">Casey Costello under fire on links to tobacco industry, says govt still committed to Smokefree 2025</a></b>	<i>"I've had no involvement with the tobacco industry," Costello said in response to questions about her credibility at the conference on Tuesday. "Despite enormous efforts to OIA and WPQ [Written Parliamentary Questions] me, there has been no association with the tobacco industry and that has not been where I have gone to for advice," Costello said.</i>

Mrs Costello's comments do not exclude the possibility that her NZ First colleagues continue to engage with tobacco companies. Indeed, her colleague, Shane Jones, has admitted [taking soundings on tobacco policy from a PMI executive](#) and, whether she has met with tobacco companies directly or not, she has advanced policies that [arguably favour the tobacco industry's interests over those of people living in Aotearoa](#),<sup>11</sup> including her [recent decision](#) to continue a "trial" of heated tobacco products.

## **Promoting public confidence in policymaking**

[Prime Minister Luxon has stated](#) that the Government: "*was well aware of its obligations under the Framework Convention on Tobacco Control and is confident in the processes it has in place to ensure compliance*". However, in early 2024, [Shane Jones' remark](#): "*I don't know anything about it [the FCTC] and I'm not giving it one iota of attention*" undermined the PM's assurance. The JUUL revelations further damage public trust.

To build public confidence, PM Luxon should establish an [independent public inquiry that reports to the Governor General](#) and investigates links between tobacco companies and all political parties. Removing the tobacco and vaping portfolios from New Zealand First would be an important first step in re-establishing public trust, at least for the duration of an inquiry.

More generally, the JUUL documents highlight the urgent need for [greater transparency in public health policy making](#), a rising concern in Aotearoa.<sup>12,14</sup> Earlier this year, Dr Ayesha Verrall launched a Tobacco Transparency Bill, designed to "[protect New Zealanders' health from the influence of big tobacco and shed light on their links to decision-makers](#)". MPs who meet their obligations under Article 5.3 would benefit from this Bill, which would remove any suspicion from them while highlighting those whose behaviour falls short of meeting our nation's international treaty commitments.



## What this Briefing adds

- Formerly secret industry documents released following litigation against US vaping company JUUL state that tobacco companies have provided policy details and talking points to the NZ First party.
- The NZ First party's response to these claims raises questions that require further investigation.
- Politicians who meet their obligations under the Framework Convention on Tobacco Control have much to gain from legislation that makes tobacco control policy-making processes more transparent.

## Implications for policy and practice

- To foster public confidence in policymaking, the Prime Minister must launch an independent public inquiry to investigate statements made in the JUUL documents.
- Removing the tobacco and vaping product portfolio from the NZ First party, at least for the duration of a public inquiry, would recognise the threat these alleged breaches of the FCTC pose to public confidence and population wellbeing.
- Passing the proposed Tobacco Transparency Bill would expose tobacco companies' efforts to shape public health policy and could increase public confidence in political processes.

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## Appendix

### The Framework Convention on Tobacco Control

The [WHO Framework Convention on Tobacco Control](#) (WHO FCTC) was adopted by the World Health Assembly on 21 May 2003 and entered into force on 27 February 2005. It was developed in response to the globalization of the tobacco epidemic and has become one of the most rapidly and widely embraced treaties in United Nations history.

It affirms the right of all people to the highest attainable standard of health, and requires Governments to protect public policymaking from tobacco industry interference in Article 5.3, which states: "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 Parties (including New Zealand) have adopted [detailed guidelines](#) for the implementation of Article 5.3. These guidelines are underpinned by guiding principles, including:

1. There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests
2. Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent.

Recommendations include:

- Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.
  - Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products
  - Where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently. Whenever possible, interactions should be conducted in public, for example through public hearings, public notice of interactions, disclosure of records of such interactions to the public
  - [A]ny necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction.
- Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.
  - Parties should not accept, support or endorse any offer for assistance or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry.

The guidelines state:

- Parties should implement measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control
- The broad array of strategies and tactics used by the tobacco industry to interfere with the setting and implementing of tobacco control measures [...] is documented by a vast body of evidence. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

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