

Administrative Measures for Tobacco Industry Accountability



I. Overview: Administrative Efficiency in Tobacco Control Enforcement

A review of tobacco-related cases filed in the past 15 years (2010–2024) — including those on advertising, packaging, taxation, and smuggling, as mandated by the World Health Organization Framework Convention on Tobacco Control (WHO FCTC)^[1] — shows that administrative tribunals typically resolve cases within one year, significantly faster than civil or criminal courts, which average four years. This supports findings that administrative proceedings generally achieve higher clearance rates than judicial proceedings.^[2]

II. Country Practices: Use of Administrative Tribunals

Nine countries have used specialized administrative tribunals or agencies to enforce tobacco control laws and hold the tobacco industry accountable. These include bodies regulating advertising, anti-competitive practices, and games of chance/ gambling.

In five countries — **Australia**^[3], **Colombia**^[4], **Italy**^[5], **Lithuania**^[6], and **Ukraine**^[7] — such bodies are authorized to impose sanctions. For example:

- **Australia:** Australian Competition and Consumer Commission (ACCC) v. Joystick Company (2017): Fine of AUD 50,000; resolved in 1 year.
- **Colombia:** Coljuegos v. COLTABACO (2014): Violation removed; resolved in 11 months.
- **Italy:** Associazione dei Consumatori v. two e-cigarette manufacturers (2019): Content removal, daily fines, and legal cost reimbursements; resolved in 3 months.
- **Lithuania:** Philip Morris Baltic (2018): EUR 2,100 fine for surreptitious advertising; resolved in 1 year.
- **Ukraine:** Administrative sanctions include fines, confiscation, and unplanned inspections, particularly under martial law.

In contrast, administrative bodies in **France**, **Germany**, the **Netherlands**, and **Panama** lack authority to impose fines. In the **United Kingdom**, the Advertising Standards Authority (ASA) can issue cease-and-desist rulings and collaborate with digital platforms without judicial proceedings,^{[8],[9]} but not impose fines. However, it can refer persistent offenders for criminal prosecution.

III. Focus of Sanctions and Enforcement Gaps

While rulings are often appealable — as in the **Australian ACCC case** where court appeals lasted 1–3 years — certain jurisdictions have mechanisms to avoid enforcement delays. The **United Kingdom ASA**, for instance, removes violating advertisements preemptively and publicizes violators, reducing opportunities for delay.

Some agencies prioritize behavioral correction over financial penalties. For example, Italy's Competition Authority dismissed complaints once offending materials were removed.^[10]

IV. Additional Administrative Enforcement Practices

Several countries are leveraging administrative mechanisms to impose liability on tobacco-related violations, particularly those involving health, environmental, and marketing infractions.

- **India:** Environmental fines by the Central Pollution Control Board (CPCB); business closures and tax penalties; criminal prosecutions for banned product sales.^{[11],[12]}
- **Norway:** Directorate of Health and municipalities can issue coercive fines.
- **Czechia:** Prosecution of marketing violations via administrative proceedings.
- **Ecuador, Côte d'Ivoire, Finland, Brazil, Ethiopia:** Use administrative penalties for health, human rights, or environmental violations linked to tobacco.

Some jurisdictions have used administrative mechanisms not only to impose penalties but also to facilitate compensation for affected communities. In the case of India, for example, the environmental compensation fines on tobacco companies for the use of plastics was directed toward remediation and enforcement actions. This approach demonstrates how administrative enforcement can support both deterrence and redress.

V. Comparative Strength of Administrative Approaches

Administrative enforcement is gaining prominence in other sectors (e.g., environmental and financial crimes). In the European Union (EU), such mechanisms are used to deter complex corporate misconduct. This trend supports the adoption of administrative pathways in tobacco control, especially where judicial systems are overburdened.

However, sanctions across countries vary significantly — even for the same offenses — with lower fines for public health violations (e.g., advertising) compared to economic crimes like tax evasion or smuggling. For instance, determining fines (or the basis of fines) for sanctions for advertising violations vary across jurisdictions.^[13]

VI. Recommendations: Strengthening Administrative Measures

Easily accessible administrative procedures create a powerful denormalizing effect on tobacco industry interference, reinforcing Article 5.3 standards through public visibility and meaningful deterrent consequences that other regulatory approaches may lack. A study of law enforcement trends in the European Union (EU)^[14] revealed that using administrative approaches to deter crime was essential, given the “complexities of modern criminal activities,”^[15] and this has effectively led to holding offenders liable. The study also recognized the value of conventions that allow for cross-border exchange of information to assist in the administrative approaches.^[16]

Most countries lack data on the robustness of their administrative mechanisms. Tobacco control treaty reporting instruments and future work should document:

- Presence and powers of administrative bodies.
- Timeframes for resolution.
- Sanctions issued and their deterrent effect.
- Limitations on appeals and mechanisms to expedite enforcement.

Among others, governments must exchange information on good practices including on how to:

- Expand mandates of consumer protection and advertising authorities to explicitly include tobacco control.
- Impose effective, proportionate, and dissuasive penalties based on harm, market size, or frequency of violation.
- Publicize non-compliance and impose ad pre-vetting requirements for repeat violators.
- Design laws to limit appeal delays^[17], such as special tribunals
- Encourage digital platform cooperation for ad removal and enforcement.
- Encourage cross-sector enforcement through environment, tax, labor, human rights, bribery/ corruption and consumer law.
- Establish administrative compensation mechanisms to provide timely redress for tobacco-related harm, drawing from models such as taxes to recover healthcare costs^[18], environmental fines, consumer safety funds, or health-related compensation schemes.

Further research should also explore overlaps with environmental and human rights tribunals, long-arm jurisdiction, and administrative redress mechanisms already used in other sectors.

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References

- [1] Guidelines for implementation of Article 13. WHO FCTC. 2013. Available at: <https://fctc.who.int/resources/publications/m/item/tobacco-advertising-promotion-and-sponsorship>
- Guidelines for implementation of Article 11. WHO FCTC. 2013. Available at: <https://fctc.who.int/resources/publications/m/item/packaging-and-labelling-of-tobacco-products>
- Guidelines for implementation of Article 6. WHO FCTC. 2017. Available at: <https://fctc.who.int/resources/publications/m/item/price-and-tax-measures-to-reduce-the-demand-for-tobacco>
- Protocol to eliminate illicit trade in tobacco products. WHO FCTC. 2013. Available at: https://iris.who.int/bitstream/handle/10665/80873/9789241505246_eng.pdf?sequence=1
- [2] “Figure 8: Estimated time needed to resolve litigious civil and commercial cases at all court instances in 2020” and “Figure 9: Estimated time needed to resolve administrative cases at first instance in 2012, 2018 – 2020”
Source: European Commission, ‘The 2022 EU Justice Scoreboard’ (2022). Available at: https://commission.europa.eu/document/download/123138e5-f651-44e4-963e-65b721c4f5e7_en?filename=eu_justice_scoreboard_2022.pdf
- [3] Australian Competition and Consumer Commission v The Joystick Company Pty Ltd [2017] FCA 397. (2017). Available at: <https://www.tobaccocontrollaws.org/litigation/decisions/australian-competition-and-consumer-commission-v-the-joystick-company-pty-ltd>
- [4] Compañía Colombiana de Tabaco S.A. (COLTABACO) v. Coljuegos, Coljuegos. (2014). Available at: <https://www.tobaccocontrollaws.org/litigation/decisions/coltabaco-s-a-pmi-v-coljuegos>
- [5] National Council of Consumers and Users (Associazione dei Consumatori) v. two electronic cigarette manufacturers [names redacted]. (2019). Available at: <https://www.tobaccocontrollaws.org/litigation/decisions/national-council-of-consumers-and-users-associazione-dei-consumatori-v-two-electronic-cigarette-manufacturers-names-redacted>
- [6] Philip Morris fined EUR 2,100 in Lithuania for misleading advertising. The Lithuania Tribune. 2018. Available at: <https://lithuaniatribune.com/philip-morris-fined-eur-2100-in-lithuania-for-misleading-advertising/>
See also: “Philip Morris Baltic (“Philip Morris”) appealed a decision by the Department of Drug, Tobacco and Alcohol Control (“the Department”) fining the manufacturer 2,100 Euros for illegal tobacco advertising and promotion. A lower court had previously rejected Philip Morris’s initial complaint.” Source: Philip Morris Baltic v. Department of Drug, Tobacco and Alcohol Control, Ruling of 24 March 2021, Supreme Administrative Court of Lithuania. (2021). Available at: <https://www.tobaccocontrollaws.org/litigation/decisions/philip-morris-baltic-v-department-of-drug-tobacco-and-alcohol-control>
- [7] “It began when the State Service of Ukraine on Food Safety and Consumer Protection fined LLC «Endorphin» for offering hookah services.” Source: Parcel taxation, hookah ban, new payment documents | January. 2025. Available at: https://torgsoft.ua/en/articles/news/january/?utm_
See also: Endorphine LLC v. Main Directorate of the State Service on Food Safety and Consumer Protection in Kyiv, Case No. 320/23655/23, Ukraine Supreme Court. (2024). Available at: <https://www.tobaccocontrollaws.org/litigation/decisions/endorphine-llc-v-directorate-of-the-state-service-of-ukraine-on-food-safety-and-consumer-protection>
- [8] ASA, ‘Independent Reviews’. Available at: <https://www.asa.org.uk/codes-and-rulings/independent-reviews.html>
See Also: Independent reviewer annual report - <https://www.asa.org.uk/static/f3857bff-5336-43cc-b7273958046e6a7f/39135757-a63e-4dcd-bd2183b9cabfb1c/2023-Independent-Reviewers-report.pdf>
- [9] ASA, ‘Making ads responsible: How we enforce the advertising rules’ (2024). Available at: <https://www.asa.org.uk/static/uploaded/5b773c7e-0e04-41bd-b09b30a440d44fd4.pdf>
- [10] BAT - Surreptitious Advertising of Glo on Social Media. Available at: <https://www.tobaccocontrollaws.org/litigation/decisions/bat-surreptitious-advertising-of-glo-on-social-media>
- [11] Central Pollution Control Board Notice to M/s S.A. Aromatics (P) Ltd. (2023). Available at: <https://cpcb.nic.in/openpdffile.php?id=UHVibGJlYXRpb25GaWxlZQzODFMTY4Nzg1Njk4MF9tZWRpYXBob3RvMTA5MzYucGRm>
See also: Central Pollution Control Board Notice to M/s Maa Vindhyavasini Tobacco Pvt. Ltd. (2023). Available at: <https://cpcb.nic.in/openpdffile.php?id=UHVibGJlYXRpb25GaWxlZQzODNfMTY4Nzg1NzEzMl9tZWRpYXBob3RvMTk3NjgucGRm>
See also: Central Pollution Control Board Notice to Multiple pan/Gutka manufacturers (2021). Available at: <https://cpcb.nic.in/openpdffile.php?id=UHVibGJlYXRpb25GaWxlZM5NjZfMTYxMjc4MjOV9tZWRpYXBob3RvMTY2My5wZGY=>

References

[12] Central Pollution Control Board Notice to Multiple pan/Gutka manufacturers (2021). Available at: <https://cpcb.nic.in/openpdf.php?id=UHVibGijYXRpb25GaWxlZm5NjZfMTYxMjc4MjEzOV9tZWVpYXBob3RvMTY2My5wZGY=>

[13] E.g. France: USD 1.2M (Philip Morris, 2024), Singapore: USD 15,000 (Japan Tobacco, 2020), Nigeria: USD 110M (British American Tobacco, 2024)

Source: Heated tobacco: Paris Court of Appeal fines Philip Morris €900,000 for illegal advertising. Générations sans tabac. Available at: <https://www.generationsanstabac.org/fr/actualites/tabac-chauffe-la-cour-dappel-de-paris-condamne-philip-morris-a-900-000e-damende-pour-publicite-illicite/>

Tobacco company fined for unlicensed distribution, advertisement of cigarettes at music festival. https://www.youtube.com/watch?v=6_znNANHaUI

Tobacco	Company	Pays	\$110m	Fine	To	FG.
https://extranet.who.int/fctcapps/fctcapps/fctc/kh/TIInterference/news/tobacco-company-pays-110m-fine-fg						

[14] E.g. Belgium, Germany, Netherlands Source: Van Daele, D., & Vangeebergen, B. (2010). Kriminalität und Strafverfolgung in der Euregio Maas-Rhein. Antwerpen/Oxford: Intersentia. (Page 498)

[15] Van Daele, D., & Vangeebergen, B. (2010). Kriminalität und Strafverfolgung in der Euregio Maas-Rhein. Antwerpen/Oxford: Intersentia. (Page 498)

[16] Van Daele, D., & Vangeebergen, B. (2010). Kriminalität und Strafverfolgung in der Euregio Maas-Rhein. Antwerpen/Oxford: Intersentia. (Page 498)

[17] UN Handbook on Dispute Avoidance and Resolution, 'Discussion Draft on Chapter 3: Dispute Resolution: Domestic Procedures' (2018). Available at: https://www.un.org/esa/ffd/wp-content/uploads/2018/05/16STM_Chapter3_DisputeHandbook_Domestic-Procedures.pdf?utm_

[18] "To further discourage smoking, a group of British MPs believe the tobacco industry should pay a tax to help pay for health care costs resulting from tobacco use." Source: British MPs want tobacco industry compensation fund. TabakNee. April 11, 2025. Available at: <https://www.tabaknee.nl/nieuws/ondertussen-in-het-buitenland/item/3215-britse-parlementarier-willen-schadefonds-tabaksindustrie>