Publication: The Sunday Times - Business
Title: Tensions rise over tobacco bill
AVE: 440951.94
Page: 1
Publish Date: 18 May 2025
Author: KHULEKANI MAGUBANE

Tensions rise over tobacco bill

Business accuses government of 'parachuting in a US antismoking NGO'

By **KHULEKANI MAGUBANE**

● The government is in a fresh standoff with business after it was accused of parachuting an American NGO into the formulation process of a bill aimed at controlling the trade of tobacco products and nicotine alternatives.

At the centre of the storm is economic policy discussion forum Nedlac (the National Economic Development and Labour Council), which is being criticised for how it handled the processing of the Tobacco Products and Electronic Delivery Systems Control Bill. But Nedlac has strongly defended itself, saying there was nothing irregular in the way it handled the discussions.

The bill — described in some quarters as draconian — aims to regulate the smoking of cigarettes and electronic tobacco and nicotine delivery systems (such as e-cigarettes and vapes); ban the display of cigarettes at point of sale; standardise cigarette packages; and ban the sale of tobacco and non-tobacco products through vending machines.

Business Unity South Africa (Busa) claims the government was allowed to parachute in a US anti-tobacco NGO as part of its delegation to Nedlac, and even allowed it to make inputs on the bill. The NGO, Campaign for Tobacco-Free Kids (CTFK), was known for having undue influence on government policies in low- and middle-income countries, it said. But CTFK has defended its participation in the Nedlac process.

In a letter to Nedlac and parliament's portfolio committee on health, Busa said it had raised several concerns about the role of international NGOs in the government chamber at Nedlac. It said it was agreed that the concerns would be included in the final report on the bill — but were "unilaterally removed from the third draft of the Nedlac report without explanation, consultation or agreement".

"The inclusion of advocacy organisations in the government chamber rather than directing them to the community chamber creates an institutional imbalance that compromises the integrity of the consultation process," Busa charged in the letter. "This irregular composition raises serious questions about whether positions presented represented official South African government policy or reflected external organisational agendas."

The business body said it believed the inclusion of CTFK in the government chamber meant the government "effectively cedes some degree of its policymaking authority to foreign organisations whose objectives and accountability lie outside South Africa's democratic framework".

Business further complained that the final report contained "substantial new information and positions introduced by government that were never presented, discussed or validated during the formal engagement sessions".

'Integrity undermined'

"This procedural irregularity undermines the integrity of the report as an accurate record of the consultation process."

The contentious anti-tobacco bill had to be redirected to Nedlac for discussion over two sessions in December after business complained that the proposed legislation was first tabled in parliament without it having been thoroughly discussed by Nedlac, as is required when dealing with laws that have wide economic impact.

Asanda Gcoyi, task lead for the business constituency on the bill at Nedlac, who is also CEO of the Vapour Products Association of South Africa (VPASA), said she had registered business's reservations with the composition of the government team.

"The biggest issue was that the government constituency invited the CTFK, an anti-vaping international NGO. The organisation is well known around the world for promoting draconian legislation on vaping and other nicotine products, with no regard for local context," she said.

CEO of the Vaping Products Association of SA Asanda Gcoyi. Picture: Supplied

"We would often get confused as the South African Medical Research Council would speak, then CTFK, then a department of health official, and we would not be sure whose position they were expressing. That was very confusing throughout the process."

The health department said only its officials were involved in drafting the bill, but public consultation included general comments from various organisations, among them CTFK. It said assertions that the NGO's involvement amounted to a procedural lapse were incorrect.

"Nedlac works through social partners, not individual organisations. The department cannot respond on behalf of CTFK, and also Nedlac relies on inputs received during deliberations and those submitted by conveners of social partners," said health department spokesperson Foster Mohale.

Smita Baruah, executive vice-president of global tobacco control programmes at CTFK, told Business Times on Friday the organisation's consultant in South Africa had decades of experience in tobacco control, nationally and internationally, and was invited based on her expertise.

'No surprise'

"She represented South Africa in the international negotiations of the FCTC [World Health Organisation Framework Convention on Tobacco Control] while employed as a director at the national department of health. It's no surprise the [health department] would invite her to join its delegation to Nedlac, where the bill was deliberated, given that she is one of the top tobacco control experts in the country."

Baruah said the tobacco industry fights all regulation of its products and policies that could affect its profits, saying this was the same playbook it had used for decades. "The real question is why an industry whose products cause 9-million deaths worldwide each year isn't ashamed of attacking people who have chosen to spend their entire careers promoting public health," she said.

VPASA's Gcoyi also accused government representatives of inserting aspects that were

Turn to page: 5

Full Page Image

www.novusgroup.co.za | Tel: 011 568 3337 | clientservice@novusgroup.co.za | Copyright Novus Group (Pty) Ltd.

Publication: The Sunday Times - Business
Title: Tensions rise over tobacco bill
AVE: 440951.94
Page: 1
Publish Date: 18 May 2025
Author: KHULEKANI MAGUBANE

Tensions rise over tobacco bill

Continued from page: 1

not discussed in the Nedlac chamber into the final report on the bill.

"With all this confusion, you then had the government constituency including new substantive content and arguments in the final report without having brought them up during deliberations," she said.

"For example, during deliberations on the issue of enforcement, there was never any assertion that the government's enforcement efforts had been successful (because they have not been). But in the final report, the government inserted assertions about enforcement being effective in South Africa. This is false, and it would have been challenged had it been tabled during deliberations."

Gcoyi said if the Nedlac report in its current form ended up forming part of the bill before parliament, business would not rule out litigation to challenge the legislation.

Responding to the accusations, Nedlac insisted that CTFK was not one of its social partners and that no inputs were received from it or included in the final bill.

Executive director Makhukhu Mampuru said when the task teams were set up, there was no indication in the terms of reference or any prior agreement that the government could bring only its employees to the engagements, as it had indicated that it needed technical assistance.

"There was nothing illegitimate about the Nedlac process," Mampuru said. "Suppose this NGO was agreeable to some manufacturers. It wouldn't be such a big deal.

We are not aware of any content being improperly excluded from the bill or of new provisions being added outside the formal process

National Council Against Smoking

I think the issue here is that the NGO set itself up to be anti-tobacco. The constituency allowed it to participate. Its legal standing in the processes was established by the fact that it comes on behalf of the delegation of one of the four social partners, the government."

Mampuru said concerns about new elements being introduced into the final report without them first being debated at Nedlac were also unfounded. All four partners associated themselves with the report, he said, and because of how highly contested the conversation was, they had to agree on certain elements, such as record accuracy.

Since a report had been sent to parliament containing the views of all social partners, they were free to make their case before the health portfolio committee, he said.

Mampuru said that the way business had handled the matter seemed to "delegitimise" the Nedlac process. But he strongly denied the process was fraught with irregularity.

Dr Sibongiseni Dhlomo, chair of the portfolio committee on health, told Business Times Busa would still get a chance to make submissions to his committee, which discussed the Nedlac report for the first time only on Wednesday when it met to continue hearings into the anti-tobacco bill.

"I can't come in and fight Busa's battles for them," he said. "In any event, those processes that Busa participated in belong to Nedlac." Expecting the portfolio committee to fully comment on Busa's concerns at this stage would undermine the parliamentary process, he added.

The National Council Against Smoking (NCAS), listed as a key South African partner on CTFK's website, said it was not aware of any procedural lapses in how the bill was developed, but said it was normal for parties to raise concerns during and after Nedlac discussions.

"We are not aware of any content being improperly excluded from the bill or of new provisions being added outside the formal process. It's also important to recognise that there are fundamental and long-standing tensions between public health and business interests," it said.

The tobacco industry consistently interfered with the policy process and opposed control measures in South Africa and elsewhere, "and will use any tactic, including mischaracterising the policy process, to try to stop the bill", it added.

Full Page Image