



# An Investigative Report

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Investigating and Exposing of British American Tobacco Kenya's (BATK) maneuvers to Defy Graphic Health Warnings Directive on Nicotine Pouches in Kenya

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# ABBREVIATIONS

<b>BATK</b>	British American Tobacco (BAT) Kenya
<b>CS</b>	Cabinet Secretary
<b>CSR</b>	Corporate Social Responsibility
<b>FCTC</b>	Framework Convention on Tobacco Control
<b>GHW</b>	Graphic Health Warnings
<b>MOH</b>	Ministry of Health
<b>KSHS</b>	Kenya Shillings
<b>MD</b>	Managing Director
<b>NACADA</b>	National Authority for the Campaign Against Alcohol and Drug Abuse
<b>NCDs</b>	Non Communicable Diseases
<b>PPB</b>	Pharmacy and Poisons Board
<b>PS</b>	Principal Secretary
<b>PLC</b>	Public Limited Company
<b>TCA</b>	Tobacco Control Act
<b>TCB</b>	Tobacco Control Board
<b>WHO</b>	World Health Organization

# ACKNOWLEDGEMENTS

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# EXECUTIVE SUMMARY

Kenya has made significant progress in tobacco control since ratifying the World Health Organization's Framework Convention on Tobacco Control (FCTC)<sup>1</sup> in 2004. This commitment aimed to reduce tobacco consumption through public education, stricter regulations, and the implementation of graphic health warnings (GHWs) on tobacco packaging.

A major step in Kenya's tobacco control efforts was the enactment of the 2007 Tobacco Control Act (TCA)<sup>2</sup>. The law mandated text-only health warnings in Kiswahili and English, covering 30% of the front and 50% of the back of cigarette packages.

Further progress was made in 2014 when the government introduced the Tobacco Control Regulations<sup>3</sup>, which required 15 new graphic health warnings (GHWs) on all smoked and smokeless tobacco products, covering the same proportion of packaging. The regulations were set to take effect in June 2015, but British American Tobacco Kenya (BATK) challenged them in court, arguing they were unconstitutional and should be dismissed entirely. The litigation took six years. Litigation is one of the tactics the industry uses in Kenya to oppose, delay, and disrupt the adoption and implementation of tobacco control policies. It was successfully deployed in 2006, when BATK Kenya and Mastermind Tobacco Kenya challenged a ban on smoking in public, which resulted in that ban being suspended until the passing of the Tobacco Control Act in 2007.

Despite opposing the 2014 Regulations, BATK implemented three of the 15 GHWs on cigarette packets only in September 2016 while awaiting the court's decision. The company eventually lost the case at every level, including the Supreme Court of Kenya in 2019. However, new tobacco products, including oral nicotine pouches, vapes, and e-cigarettes, continue to be sold in Kenya without graphic health warnings.

## BATK'S Strategies to Undermine Graphic Health Warning Regulation

BATK has employed various strategies to resist regulation, particularly regarding oral nicotine pouches marketed as LYFT (later rebranded as Velo). These pouches were introduced in 2019 when BATK registered them with the Pharmacy and Poisons Board (PPB) as pharmaceutical products, bypassing the Tobacco Control Act. Although they were reclassified as tobacco products in 2021, industry lobbying has prevented the enforcement of graphic health warnings on these products. As of December 2024, oral nicotine pouches still only carry text warnings.

The strategies used by BATK to undermine tobacco control regulations include economic blackmail, legal and legislative manipulation, lobbying within government, scientific claims, media campaigns, and influence peddling.

<sup>1</sup>WHO, World Health Organization. (n.d.). WHO Framework Convention on Tobacco Control (WHO FCTC). Retrieved January 6, 2025, from [https://www.who.int/europe/teams/tobacco/who-framework-convention-on-tobacco-control-\(who-fctc\)](https://www.who.int/europe/teams/tobacco/who-framework-convention-on-tobacco-control-(who-fctc))

<sup>2</sup>Center for Health Solutions Kenya. (2007). Tobacco Control Act, 2007. Retrieved from <https://www.chskenya.org/wp-content/uploads/2016/05/Tobacco-Control-Act-2007-.pdf>

<sup>3</sup>National Council for Law Reporting. (2007). Kenya Subsidiary Legislation, No. 4 of 2007. Kenya Law. Retrieved from <http://kenyalaw.org:8181/exist/kenyalex/sublegview.xql?subleg=No.%204%20of%202007>

<sup>4</sup>Kenya Law Reports. (2016, March 16). Kariuki v. Kariuki (2016) eKLR. Retrieved from <http://kenyalaw.org/caselaw/cases/view/120311/>

<sup>5</sup>Tobacco Tactics. (2021, September 14). Mastermind Tobacco Kenya. Tobacco Tactics. Retrieved February 13, 2025, from <https://www.tobaccotactics.org/article/mastermind-tobacco-kenya/>

<sup>6</sup>British American Tobacco Kenya Ltd & another v. Attorney General & 2 others [2006] eKLR. Kenya Law Reports.

## Conclusion and Recommendations

BATK's interference poses a significant threat to Kenya's public health objectives. Kenya's advancements in tobacco control are undermined by economic pressures, regulatory loopholes, and industry-backed lobbying that diminish the intended impact of public health policies. To combat this influence, the report recommends:

- **Strengthening enforcement:** Enforce graphic health warnings on all nicotine products, including pouches, with consistent monitoring to prevent regulatory circumvention.
- **Reducing industry influence:** Impose stricter rules on industry-government interactions, particularly in policy formation, to uphold WHO FCTC guidelines.
- **Educating the public:** Increase awareness campaigns targeting youth to counter tobacco industry marketing and inform about the risks of nicotine pouches.
- **Engage in partnerships with local media and health experts:** Work with local journalists to ensure that only accurate, evidence-based information on the dangers of nicotine pouches reaches the public.

# INTRODUCTION

## The Evolution and History of Graphic Health Warnings (GHWs) in Kenya

Kenya's battle against tobacco abuse intensified in 2004, when the country signed and ratified the World Health Organization's Framework Convention on Tobacco Control (WHO-FCTC). The country then enacted Kenya's Tobacco Control Act (TCA) in August 2007.

However, latest data shows tobacco use kills at least 6,000 Kenyans every year, and leaves thousands of others sick. Tobacco use is one of the four risk factors that are increasing the burden of non-communicable diseases in Kenya (NCDs), according to the WHO.

Over the years, Kenya has made important steps focused towards control of tobacco products. In 2012, the Kenyan government began the procedure of coming up with GHWs which would appear on all tobacco products packages.

## The WHO Framework Convention on Tobacco Control

The GHWs are recommended by Article 11 of the WHO-FCTC. The Article clearly stipulates that "each party shall adopt and implement effective packaging and labeling measures within a period of three years after entry into force of the convention for that party."

The Article recommends that such communication shall be clear, visible, large and readable. Warning messages should also cover most of the main area of display and not less than

30% of principal display area. Kenya's 2007 Tobacco Control Act recommends health warnings (both text and pictorial) should cover at least 30% of the front and 50% of the back of a tobacco product packaging.

In December 2014, Kenya gazetted the tobacco control regulations. They require all tobacco products to carry health warnings and messages including pictograms (Graphic health warnings). This was a move geared towards operationalizing key parts of the Tobacco Control Act.

## Tobacco Industry Attempts to stop GHWs through the Courts

BATK and Mastermind Tobacco Ltd immediately filed a petition at the High Court seeking to have the Regulations declared unconstitutional. The Government of Kenya and the Kenya Tobacco Control Alliance (KETCA) and the Consumer Information Network (CIN) – the two civil society organisations enjoined in the petition – successfully defended the regulations of all three levels of courts: the High Court, the Court of Appeal and finally the Supreme Court. The battle took a whole five years!

The Supreme Court decision, which came on 26 November 2019, upheld previous decisions in favour of the Kenyan government in the High Court of Kenya and the Court of Appeal of Kenya.

The Supreme Court is the court of final appeal in Kenya, but it is possible for it to review its decision, although this has no precedent in Kenya.

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<sup>7</sup> World Health Organization Regional Office for Africa. (n.d.). Kenya leads global World No Tobacco event. Retrieved December 14, 2024 from <https://shorturl.at/ldyuO>

<sup>8</sup> World Health Organization. (n.d.). Noncommunicable diseases. Retrieved February 10, 2025, from <https://www.who.int/news-room/fact-sheets/detail/noncommunicable-diseases>

<sup>9</sup>Centre for Tobacco Control in Africa. (2023, September 5). Kenya embarks on developing pictorial health warnings (PHWs) for packages of tobacco products. <https://ctc-africa.org/kenya-embarks-on-developing-pictorial-health-warnings-phws-for-packages-of-tobacco-products/>

<sup>10</sup>WHO. (n.d.). Article 11: Packaging and labelling of tobacco products. WHO Framework Convention on Tobacco Control Implementation Database. Retrieved February 10, 2025, from [https://extranet.who.int/fctcapps/fctcapps/fctc/implementation-database/treaty\\_provisions/article-11](https://extranet.who.int/fctcapps/fctcapps/fctc/implementation-database/treaty_provisions/article-11)



On 17 July 2024, nine individuals (representing seven organisations) made an application to the Supreme Court of Kenya, seeking two prayers:

- a. Review of the judgement of the Supreme Court dated 26th November 2019, in which the Supreme Court dismissed BAT's cases against the Tobacco Control Regulations.
- b. To be enjoined as interveners in the new case. An intervener is not an original party to a case but is permitted to participate in the proceedings, and provide a perspective on the case in the parts that directly affect them.

Under Section 21A of Kenya's Supreme Court Act, only parties to a case can apply for a judgment review, making the application as interveners a necessary procedural step.

The Supreme Court delivered its ruling on 22 November 2024 and dismissed both prayers. "The application is misguided, frivolous, filed almost five years after our judgment was rendered and is a clear abuse of court process and must therefore be dismissed with no order as to costs since it was not responded to," the Supreme Court said.

### Graphic Health Warnings on all Tobacco Products

The Tobacco Control Regulations 2014 gazetted by the Ministry of Health clearly state that all tobacco products should bear health warnings and pictograms on front and back respectively.

The pictogram should be printed in full color, contrasting with the background to ensure noticeability while the health warning messages would be printed in black and white.

The health warning message on the front of the package should be printed in English while the back package should be in Kiswahili. "The manufacturer, seller, distributor or importer of the tobacco product shall ensure that the health warnings and messages shall be printed on both the wrapper and the packet," the regulations published by former Health Cabinet Secretary James Macharia said.

### Nicotine Pouches in Kenya

Nicotine pouches have evolved from the original Swedish snus products, with the first modern nicotine pouch introduced in 1983 by a Swedish company called Gajane. These pouches were marketed as a "less harmful" alternative to smoking, designed to be discreet and easy to use.

Today, there is a wide range of nicotine pouches available, in different flavours, strengths, and sizes. Popular flavours include mint, citrus, and berry, with strengths ranging from mild to strong.

The WHO warns that the tobacco industry is using new strategies to fuel its multi-billion-dollar turnover. The WHO said that while the industry is using the concepts of "harm reduction" and "healthier alternatives to smoking" to justify unregulated entry of these new and emerging nicotine and tobacco products into national markets, "the truth is these products typically contain nicotine and other toxic substances that can have harmful impacts on brain development and long-term consequences, particularly for children and adolescents."

It advised countries to consider applying regulatory measures, based on international best practices "prohibiting or restricting the manufacture, import, distribution, presentation, sale and use of new and emerging nicotine and tobacco products."

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<sup>11</sup>Tobacco Control Board. (2007). Kenya Tobacco Control Act, 2007. <https://tcb.go.ke/download/kenya-tobacco-control-act-2007/>

<sup>18</sup>Republic v Kenya Law. (2022, December 31). Tobacco Control Regulations, 2014 Retrieved from <https://tinyurl.com/479dnvz4>

<sup>19</sup>Nictopia. (n.d.). The history and evolution of nicotine pouches. Retrieved December 13, 2024, from <https://shorturl.at/b5riH>

<sup>20</sup>World Health Organization. (2023, February 9). New and emerging nicotine and tobacco products pose challenges for tobacco control. World Health Organization Regional Office for the Eastern Mediterranean. Retrieved from <https://tinyurl.com/bdz2hfh4>

<sup>21</sup>ShareHub. (n.d.). [British American Tobacco Kenya Full Year Results 2019]. Retrieved February 10, 2025, from <https://www.sharehub.co.ke/uploadedmedia/documents/ebed878c-3d6b-4fa1-a920-1a18d752b902.pdf>

<sup>22</sup>British American Tobacco. (n.d.). Driving innovation. British American Tobacco. Retrieved February 10, 2025, from <https://tinyurl.com/yc4n7au3>

BATK introduced its first oral nicotine product in Kenya, called LYFT, in 2019 . In promoting LYFT around the world, BAT said “we are creating new products, that encourage adult smokers to switch to scientifically-substantiated less risky alternatives.”

The Kenya Tobacco Control Regulations outlaw marketing claims that some tobacco products are “less risky”. A part of the regulations states: “A person shall not manufacture, sell, distribute or import a tobacco product for sale in Kenya, whose package carries a name, brand name, text, trademark or pictorials or any representation or sign which suggests that the tobacco product is less harmful to health rather than other tobacco.”

This deliberate marketing of LYFT as “less-risky” prepared the ground for the company’s future arguments and

maneuvers to defy Graphic Health Warning directives on its oral nicotine pouches.

To promote LYFT, influencers and promotional messages regarding the product flooded social media platforms such as Instagram. The pouches were presented as cool and aspirational and were available under the party category on Jumia, an online shopping site popular with the young middle class. They are no longer available on Jumia.

At that time, LYFT was not yet designated as a tobacco product by the Ministry of Health. This designation was announced by Cabinet Secretary for Health Mutahi Kagwe on 21 January 2021 in a letter to BAT Kenya Plc Managing director Crispin Achola.

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<sup>23</sup>Tobacco Control Legal Consortium. (2015, February). Tobacco labeling and packaging regulations. Tobacco Control Legal Consortium. Retrieved February 10, 2025, from <https://tinyurl.com/34p2d6dt>

<sup>24</sup>Jumia Kenya. (n.d.). Party. Jumia Kenya. Retrieved February 10, 2025, from <https://www.jumia.co.ke/>

# ANALYSIS OF TOBACCO INDUSTRY DEFIANCE OF GHW IMPLEMENTATION ON NICOTINE POUCHES

As of December 2024, oral nicotine pouches sold in Kenya (see image below) do not bear Graphic Health Warnings. The Velo brand only bears a written warning on 15 per cent of the pack. BATK markets the Velo brand (previously known as LYFT), despite non-compliance with requirements of the Tobacco Control Act and the Tobacco Control Regulations regarding graphic health warnings. This section will reveal how the company has managed to push back this requirement for the last five years.



*Current image of Velo oral nicotine pouches.*



## Registration of LYFT (now known as Velo)

The Pharmacy and Poisons Board (PPB) is the drug regulatory authority established under the Pharmacy and Poisons Act, Chapter 244 of the Laws of Kenya. Its mandate is to protect and promote the health of the public by regulating the profession of pharmacy and ensuring access quality, safe and efficacious and affordable of health products and technologies.

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<sup>25</sup>Kenya Law. (1956). Cap. 244: The Penal Code. Kenya Law. Retrieved February 10, 2025, from <https://tinyurl.com/8tnhhh3k>

The Pharmacy and Poisons Act (the “Poisons Act”) lists nicotine and its salts, as a poison under Part I of the Poisons List which is reserved for sale by or under the supervision of pharmacists only.

LYFT was registered in 2019 under Section 25 of the Pharmacy and Poisons Act, as a pharmaceutical drug. Part I poisons (which includes nicotine) indicates that such products can only be handled by a:

- Licensed wholesale dealer
- An authorized seller of poisons
- A person licensed to sell poisons for mining, agricultural or horticultural purposes
- Any person, institution or department to whom a Part I poison has been lawfully sold for the purpose for which such sale was made; and
- Any person for whom the poison has been lawfully supplied or dispensed by a duly qualified medical practitioner, dentist, or veterinary surgeon, or by a hospital, dispensary.

The Tobacco Act defines a tobacco product to mean a product composed, in whole or in part, of tobacco, including tobacco leaves and any extract of tobacco leaves intended for use by smoking, inhalation, chewing, sniffing or sucking

and includes cigarette papers, tubes and filters.

This misplaced registration of LYFT as a pharmaceutical product may have been deliberately orchestrated by BATK to avoid the provisions of the Tobacco Control Act, which include mandatory Graphic Health Warnings.

This misleading registration was the first major act of interference by the tobacco industry, to evade regulation of nicotine pouches under the Tobacco Control Act. No one at PPB was ever publicly reprimanded for facilitating the registration of LYFT as a pharmaceutical product yet it was clear it did not meet the criteria of a pharmaceutical product or a poison.

Further, the time taken from submission to the date a product is recommended for registration in Kenya is about 14 months. This means the registration of LYFT in 2019 may have been unusually fast-tracked.

Following its registration in 2019, BAT flooded the Kenyan market with LYFT, making it widely accessible to people of all ages, genders, and social backgrounds. Despite its classification as a pharmaceutical product, LYFT was marketed aggressively through social media influencers (see image below) and made available in supermarkets, convenience stores, and gas stations.



*A Kenyan influencer promoting LYFT*

<sup>26</sup>Kenya Law. (2022, December 31). The Pharmacy and Poisons (Amendment) Act, 1961. Kenya Law. Retrieved February 10, 2025, from <https://tinyurl.com/mrx4jy47>

<sup>27</sup>Kenya Law. (n.d.). Pharmacy and Poisons Act, Cap. 244. Retrieved February 10, 2025, from [https://kenyalaw.org/ki/fileadmin/pdfdownloads/Acts/PharmacyandPoisonsAct\\_Cap.244.pdf](https://kenyalaw.org/ki/fileadmin/pdfdownloads/Acts/PharmacyandPoisonsAct_Cap.244.pdf)

<sup>28</sup>Center for Health Solutions - Kenya. (2007). Tobacco Control Act, 2007. Retrieved February 10, 2025, from <https://www.chskenya.org/wp-content/uploads/2016/05/Tobacco-Control-Act-2007-.pdf>

<sup>29</sup>Mokaya, J. (2020). A retrospective review of pharmaceutical product dossiers submitted at the Pharmacy and Poisons Board between 2010 and 2014 Master’s thesis, University of Nairobi]. University of Nairobi Repository University of Nairobi Repository. <https://shorturl.at/D69wD>

It was also distributed through vending machines in major cities and towns, and online retail options. This violated provisions of the Section 25 of the Pharmacy and Poisons Act CAP 224 which limits sale of products licensed under that law to licensed outlets only.

The rapid uptake of LYFT, particularly by the youth, raised significant concerns among various health organizations, including parent and teacher associations, civil society groups, tobacco control advocates, and non-communicable disease prevention bodies. These groups were alarmed by the ease with which a product registered as a pharmaceutical could be accessed by the public, often in clear violation of the law.

Also surprising is that BATK quickly received a certificate from PPB allowing it to manufacture LYFT as a pharmaceutical product in Nairobi (see appendix).

According to our investigations, this certificate was renewed once in 2021, when Ministry of Health – which oversees the PPB – overruled the PPB and officially designated nicotine pouches as tobacco products (please see appendix, Figure 1), making the PPB certificate invalid.

### Lobbying within Government

Article 5.3 of the FCTC requires countries to protect public health policies from the tobacco industry's "commercial and vested interests". All governmental sectors, including the executive, legislative, and judicial branches, are bound to comply with Article 5.3 and limit interactions with the industry.

But the BATK maintained access to offices of the Cabinet Secretary (minister) of Health and of Cabinet Secretary of Ministry of Industrialization, Trade and Enterprise Development in Kenya where it lobbied against GHWs and

lobbied for an operation licence for its factory to manufacture nicotine pouches in Kenya.

The investigation counted more than ten exchange of letters between BATK and [mostly] the Ministry of Health, which have helped delay implementation of the Graphic Health Warnings on oral nicotine pouches for the last five years.

The first letter (referred to as "Letter 1 2020" in this report and appendix) reveals that in 2019 BATK had even announced to the President of Kenya, Uhuru Kenyatta, of its intention to set up an oral nicotine manufacturing plant in Nairobi. Most subsequent letters, in which BATK lobbies against GHWs, also mention this manufacturing plant.

In this letter, dated 14 April 2020, the Ministry of Industrialization intervened on behalf of BAT and wrote to the Ministry of Health asking the Ministry of Health to grant the necessary licence for this plant to become operational. The 14 April 2020 letter (appendix "Letter 1 2020") was written by the Cabinet Secretary in the Ministry of Industrialization, Trade and Enterprise Development, Betty C. Maina, and addressed to Hon Mutahi Kagwe, the Cabinet Secretary for Health.

BATK had already secured a 'Certificate to Manufacture Drugs For Sale' (appendix Figure 1) from the Pharmacy and Poisons Board but still lacked other necessary approvals from the Ministry of Health. The Ministry of Industrialization's letter (Letter 1 2020) also said BATK did not want its oral nicotine pouch categorized as a tobacco product, which would force it to have text/graphic health warnings and bar it from advertising the product.

Betty C. Maina, the Cabinet Secretary in the Ministry of Industrialization, wrote in the letter (Letter 1 2020): "In a meeting held with members of the private sector in Kenya at State House in May 2019, BAT Kenya announced to H.E. President Uhuru Kenyatta its commitment to invest Ksh2.5

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<sup>30</sup>Kenya Law Reform Commission. (n.d.). The Pharmacy and Poisons Act (Cap. 244). Retrieved from [https://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PharmacyandPoisonsAct\\_Cap.244.pdf](https://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PharmacyandPoisonsAct_Cap.244.pdf)

<sup>31</sup>Nation Media Group. (2021, November 10). Parents fight sale of oral nicotine. Daily Nation. <https://nation.africa/kenya/news/parents-fight-sale-of-oral-nicotine-1925788>

<sup>32</sup>Business Daily Africa. (2021, February 9). Blow to BAT as Kagwe declares LYFT illegal. Business Daily Africa. Retrieved February 10, 2025, from <https://www.businessdailyafrica.com/bd/corporate/health/blow-bat-kagwe-declares-LYFT-illegal-2459642>

<sup>33</sup>Burki, TK. (2021). Petition to ban nicotine pouches in Kenya. The Lancet Oncology, 22(6), 756. [https://doi.org/10.1016/S1470-2045\(21\)00267-9](https://doi.org/10.1016/S1470-2045(21)00267-9)

<sup>34</sup>World Health Organization. (n.d.). Guidelines for implementation of Article 5.3. WHO Framework Convention on Tobacco Control. Retrieved February 10, 2025, from <https://fctc.who.int/resources/publications/m/item/guidelines-for-implementation-of-article-5.3>

Billion in a new world-class factory to manufacture LYFT (also known as Velo), BAT's oral nicotine product with zero tobacco; the first of its kind in Africa.

“Currently, BAT Kenya imports LYFT from Hungary for sale in the Kenyan market. The Nairobi factory would serve as an export hub for LYFT, positioning Kenya as the only country outside Europe, Indonesia and Pakistan with such a factory.”

CS Maina added: “However, the firm has raised concerns on the regulatory environment regarding the guidelines for categorization of the product. This places it as a borderline product thereby impacting on the freedom for its advertising and sale.

“The purpose of this letter therefore is to request you to consider a dialogue with BAT team to deliberate on the issues raised which has implications on the planned investment.”

The Ministry of Health responded on 21 May 2020 (see appendix Letter 2 2020) and said it would order tests on the nicotine pouches before allowing their manufacture in Kenya.

“Ministry weighs the public health effects of the product versus the economic gains while noting that Public health supersedes all other interests. It will be of no benefit to the Kenyans if by virtue of manufacturing this product they suffer the negative health effects,” said the response, sent by Health CS Mutahi Kagwe.

In October 2020, former Kenya Cabinet Secretary for Health Mutahi Kagwe wrote to the PPB ordering deregistration of LYFT.

Reports by the Kenyan media, quoting CS Kagwe's letter to PPB, reported that the CS said licensing of LYFT was done contrary to the provision of section 25 of the Pharmacy and Poison Act CAP 224 and it does not meet the provisions of section 23 of CAP 224 of selling the product public as required.

The provisions indicate such products can only be handled by a:

- Licensed wholesale dealer
- An authorized seller of poisons
- A person licensed to sell poisons for mining, agricultural or horticultural purposes
- Any person for whom the poison has been lawfully supplied or dispensed by a duly qualified medical practitioner, dentist, or veterinary surgeon, or by a hospital, dispensary.

Mr Kagwe said LYFT and other nicotine pouches and all tobacco products meant for use by inhalation, are clearly regulated under the Tobacco Control Act.

The Cabinet Secretary for Health suspended the continued sale of LYFT until its registration was regularised as a tobacco product as opposed to a pharma product.

Despite this ban by the Cabinet Secretary, enforcement of the directive was slow, and illegal sales of the product continued through retailers. It is not clear how retailers accessed the products they sold.

The Health Cabinet Secretary, Hon Mutahi Kagwe, on 21 January, 2021 (see appendix Letter 3 2021), wrote to BATK Managing Director Crispin Ochola informing him the Ministry had established that LYFT contains nicotine extracted from tobacco and would henceforth be classified as a tobacco product and not a pharmaceutical product.

“In this regard, the nicotine pouches will be required to comply with the provisions of the Tobacco Control Act 2007, Tobacco Control Regulations 2014 and any other provisions of similar laws that regulate tobacco products. These include compliance with packaging, labelling and pictorial health warnings,” the Cabinet Secretary said (Letter 3 2021).

On 9 February, 2021, the Tobacco Control Board wrote (see appendix Letter 4 2021) to BATK Managing Director Crispin Ochola informing him that pursuant to the directive by the Cabinet Secretary in the 21 January 2021 letter (Letter 3 2021), BATK had 21 days to comply.

<sup>35</sup>Business Daily Africa. (2020, October 6). Blow to BAT as Kagwe declares LYFT illegal. Business Daily. Retrieved February 10, 2025, from <https://www.businessdailyafrica.com/bd/corporate/health/blow-bat-kagwe-declares-LYFT-illegal-2459642>

<sup>36</sup>Standard Media. (2020, October 14). Health CS Kagwe bans nicotine pouches LYFT. Standard Media. Retrieved February 10, 2025, from <https://www.standardmedia.co.ke/health/amp/health-science/article/2001389220/health-cs-kagwe-bans-nicotine-pouches-LYFT>

<sup>37</sup>Mutua, P. (2024, November 17). Dealers make tidy profits selling nicotine pouches despite ban. Business Daily Africa. <https://www.businessdailyafrica.com/bd/markets/market-news/dealers-make-tidy-profits-selling-nicotine-pouches-despite-ban-3898450>

"You are hereby given 21 days to comply with the packaging and labelling requirements with effect from the date of this letter and thereafter any non-compliant items shall be seized. LYFT, sold in Kenya MUST contain pictorial health warnings that are currently used for other tobacco products as per the Act and Regulations," wrote Dr Kepha M. Ombacho, the Secretary of the Tobacco Control Board.

### **Intimidation of Government Officials & Interference with Policy Making**

Following the 9 February 2021 directive (Letter 4 2021) by the Tobacco Control Board, BATK opened new demands that aimed at preventing or delaying compliance with requirements of the Tobacco Control Act.

The investigation does not have evidence that the company responded to Dr Kepha Ombacho of the Tobacco Control Board. However, there is evidence that the company went higher and contacted the Cabinet Secretary for Health Mutahi Kagwe on 18 February 2021 making five requests, which would either completely stop or delay implementation of GHWs. The letter to CS Mutahi Kagwe was signed by Mr Ochola. Please see appendix, Letter 5, 2021.

BATK attempted to spearhead the development of policies on tobacco in Kenya. First, the letter asked for the review of the TCA, and the Tobacco Control Regulations to create a new legal framework for nicotine pouches, separate from conventional cigarettes.

"The current Graphic Health Warnings labelling and packaging requirements under the Act are not suitable for oral nicotine products like LYFT given that there is no combustion as such, pictures of diseased lungs for example are inappropriate," Mr Ochola wrote (Letter 5, 2021).

He also asked for: Development, implementation and enforcement of new product standards to regulate specifications of the product; development of new excise framework for LYFT that would attract lower taxes; permission to sell off about 400,000 cans of LYFT worth Kshs33 million beyond the 21 day transition period; and a

transition period of 9-12 months to any new regulatory framework.

We could not access the Ministry of Health's response to these requests. However, The Sunday Nation on 04 April, 2021, quoted BAT saying the Ministry had acquiesced to the demands allowing it to sell the 400,000 nicotine pouches, which did not bear GHWs.

In September 2021, BATK continued in its attempt to rewrite Kenya's tobacco control laws and exempt nicotine pouches from bearing Graphic Health Warnings and bear text only warnings instead.

On 7 September, 2021, managing director Crispin Achola wrote (See appendix Letter 6 2021) to the Kenyan Ministry of Health for permission for LYFT (now also known as Velo) to be marketed with a warning label covering only 10% of the packet. According to the Kenya Tobacco Control Act, a combined picture and text health warning must cover 30% of the front and 50% of the back of a package, which is 40% of the total package space.

However, the BATK told the Health Cabinet Secretary that "all countries where nicotine pouches are sold apply Text Health Warnings" as opposed to GHWs.

"We therefore kindly request that the Cabinet Secretary exercise this discretion and direct that oral nicotine pouches such as LYFT (also known as Velo) apply Text Health Warnings in the form and format as shared in this letter," said the letter, signed by Crispin Achola, the BATK managing director.

"Your positive consideration of this request will allow us to operationalize our factory," the letter from the BAT managing director said (Letter 6 2021).

After reviewing the request, the Ministry of Health again capitulated to BATK and allowed English text-only warning which would cover at least 15% of the pack's front part, and at least 25 per cent of the back in Kiswahili. The Ministry did not provide any justification for its decision.

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<sup>38</sup>Nation Media Group. (2021, March 24). Ministry, BAT agree on nicotine product. Nation Africa. <https://nation.africa/kenya/business/companies/ministry-bat-agree-on-nicotine-product-3347990>

Kenya's Health CS Mutahi Kagwe confirmed this in a letter to Mr Achola on 4th October, 2021 (See appendix Letter 7 2021).

This was a clear disobedience of the tobacco regulations which state that such warnings have to cover a third of the package and include information and GHWs about the health hazards of the product.

On 15 July 2022 Health CS Mutahi Kagwe wrote a subsequent letter (see appendix Letter 8 2022) to BATK Managing Director Crispin Achola noting the permission to market nicotine pouches with the 15 per cent text health warnings was only valid until July 2023.

After that, the company would have to adhere to provisions of the TCA 2007, which demand a combined picture and text health warning covering 30% of the front and 50% of the back of a package.

In a cat and mouse game, just a month after the permission for text only warnings through July 2023 ran out, BAT wrote to the Ministry of Health requesting for an indefinite exemption, "pending the development of specific regulations on this product and related categories".

It is important to note Article 5:3 of the FCTC advises against such deep interactions with the industry. The government should also not allow the tobacco industry to advise the government on public health policy. This is because of the industry's longstanding and relentless actions to subvert effective tobacco control policies. The article also prohibits government action that provides the tobacco industry with preferential treatment of any kind or any incentives to operate.

The Ministry of Health did not respond to our requests to confirm if it wrote back to BATK. This technically means any nicotine pouches in the Kenyan market, which do not adhere to the 2007 TCA, are there illegally.

The use of smaller labels on Velo points out to well calculated move to avoid GHWs and ensure that nicotine product users in Kenya don't really understand the implications of such products in their own bodies.

### **Economic Blackmail to Stop Graphic Health Warnings**

The BATK in 2020 announced that it began "construction" of a Sh2.5 billion nicotine pouch factory in Nairobi, Kenya. This factory would produce pouches for sale in Kenya and export to other countries. According to the company, this would bring employment to Kenya and boost the economy.

The industry also asked for tax relief on nicotine pouches produced in Kenya. Section 32 of the Tobacco Control Regulations (2014) specifically forbids the granting of any tax relief to the tobacco industry. Therefore, in light of these legal provisions, BAT's request was appropriately denied, reinforcing Kenya's commitment to its tobacco control objectives.

Based on its Sh2.5 billion investment in an oral nicotine factory, the company has consistently sought preferential treatment from the government. This preferential treatment, as of August, 2023, referred to exclusion of nicotine pouches from GHWs and other requirements of the Tobacco Control Act such as ban on flavours.

On 4 August, 2023, BATK wrote to the Principal Secretary in the Ministry, Hon Mary Muthoni Muriuki, and reiterated that it has invested in a "state-of-the-art Kshs2.5 billion" manufacturing facility to produce nicotine pouches.

The letter, signed by BATK managing director, said the company, from July 2023, has complied with the Tobacco Control Act requirement for [text] warning to cover at least 30 per cent of the front of the pack and at least 50 per cent of the back.

"Considering the above, we write to request that the Ministry maintains application of the above directive, pending the development of specific regulations on this product and related categories," said the letter signed by Crispin Achola.

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<sup>39</sup>Nation Alushula, P. (2020, February 20). BAT to build Sh2.5bn nicotine pouch plant. Business Daily. <https://www.businessdailyafrica.com/bd/corporate/companies/bat-to-build-sh2-5bn-nicotine-pouch-plant-2281188>

<sup>39</sup>Business Daily. (2020, September 7). BAT eyes tax holiday for nicotine pouches. Business Daily Africa. Retrieved from <https://www.businessdailyafrica.com/bd/corporate/companies/bat-eyes-tax-holiday-for-nicotine-pouches-2301640>



This implied the company expected the government not to fully enforce the law because it made a multi-billion shilling investment in Kenya.

BATK said Kshs2.5 billion oral nicotine pouches factory was ready for commercialization in 2023, but has not yet operated due to a lack of regulatory approval from the government. BAT pegged local production at this factory on “less stringent” regulatory and taxation framework. As noted above, a “less stringent” regulatory environment, according to BATK, is one where nicotine pouches do not bear GHW and are not subjected to other Tobacco Control Act provisions such as ban on flavours and increased taxation.

The youth (15 – 34 year olds), who form 35 percent of the Kenyan population, have the highest unemployment rate of 67 percent in Kenya, according to the Federation of Kenya Employers. Over one million young people enter into the labour market annually without any skills some having either dropped out of school or completed school and not enrolled in any college.

Thus, the Kenyan government may find it easier to capitulate to industry demands if there is a promise to create employment.

This economic blackmail – use of promises of investments to demand less rigorous laws for harmful products – has slowed down the implementation of GHWs on nicotine pouches. The blackmail grew in 2024 with BATK suggesting that it would sell its factory machinery because the facility has

been idle for nearly five years due to the government’s failure to issue a license for commercialization of the new product. The announcement was made in a commentary accompanying the company’s six-month financial results in June 2024.

The company said: "Regulatory uncertainty resulted in suspension of our modern oral nicotine pouch sales in the domestic market. As a result of prolonged regulatory uncertainty, commercialisation of our oral nicotine pouch factory was impeded. To protect shareholder value, the Company accepted offers for sale of the oral nicotine pouch factory machinery." However, there is no evidence the machinery was sold.

BATK made this announcement one month after the Ministry of Health begun conducting public participation for new Graphic Health Warnings on cigarettes and nicotine pouches in May 2024. Article 10 of the Constitution of Kenya, and other laws require public participation in several areas of governance. This includes holding public sittings and allowing the public to submit views on proposed laws and policies.

### **Interference through the media**

The Ministry of Health, in collaboration with the Tobacco Control Board, launched a public participation initiative on implementing a new set of graphic health warnings for tobacco products on May 2, 2024. The exercises emphasized the importance of powerful warnings to communicate the health risks of tobacco products over five days in different parts of the country.

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<sup>41</sup>Business Daily Africa. (2024, November 13). BAT ties production of nicotine pouches to lower taxes. Business Daily Africa. <https://www.businessdailyafrica.com/bd/corporate/companies/bat-ties-production-of-nicotine-pouches-to-lower-taxes-4195690>

<sup>42</sup>Federation of Kenya Employers. (n.d.). Youth employment. The Federation of Kenya Employers. Retrieved February 11, 2025, from <https://www.fke-kenya.org/policy-issues/youth-employment>

<sup>43</sup>World Health Organization. (2024, August 28). BAT says it won't make nicotine pouches in Kenya amid dispute over proposed health warnings. WHO FCTC Knowledge Hub for Article 5.3. <https://tinyurl.com/5n8wstky>

<sup>44</sup>British American Tobacco Kenya. (n.d.). 2024 Half-Year Results [PDF]. Retrieved from <https://www.batkenya.com/content/dam/endmarkets/ken/download/investors-and-reporting/2024-Half-Year-Results.pdf>

<sup>45</sup>Kenya News. (2024, November 15). New graphic warnings to discourage tobacco use. Kenya News. <https://www.kenyanews.go.ke/new-graphic-warnings-to-discourage-tobacco-use/>

<sup>46</sup>Ministry of Health. (2024, May 2). Public participation on implementation of graphic health warnings for tobacco products. Ministry of Health, Kenya. <https://tinyurl.com/2bnj87ca>

The Ministry of Health proposed new graphic health warnings that would cover both traditional tobacco products and oral nicotine products.

At the end of April 2024, one week before the public participation forums began, a team of health journalists in Nairobi were invited to a coffee shop for a chat with “Harm Reduction” advocates. The invitations were made through text messages and calls, according to journalists who were invited. The harm reduction narrative is that smokers should switch from cigarettes to newer products, such as nicotine pouches, which are marketed as “less harmful”, even though these products are still dangerous and addictive, keeping profits at the core of the industry’s interests.

The concept of harm reduction is primarily part of the industry’s plan to weaken or delay tobacco control policies, with the main purpose to facilitate the conversion of healthy younger generations into lifelong nicotine addicts. In Kenya, this concept is promoted by groups (suspected to be front groups), which strongly hide their links to the tobacco industry.

Afterwards, during the public participation forums, more than ten press statements castigating the Ministry of Health were shared through various emails such as:

- a. [pressservicecentre@gmail.com](mailto:pressservicecentre@gmail.com)
- b. [mediaintelkenya@gmail.com](mailto:mediaintelkenya@gmail.com)
- c. [pressservicecentre@gmail.com](mailto:pressservicecentre@gmail.com)

The emails addresses could have been created by a single-industry funded Public Relations company. That is because the messages were astoundingly similar.

The titles of the emails included the following:

- a. Press Release: Quitting Cigarettes is Primary Motive of Vape and Pouch Users, Survey Shows
- b. Press Release: Stakeholders call for review of proposed

graphic health warnings for tobacco products as public participation exercise comes to an end.

- c. Press Release: Harm Reduction Specialists Urge Policymakers Not To Waste Golden Opportunity To Save Smokers’ Lives
- d. Press Release: Urging Policymakers Not To Waste Golden Opportunity To Save Smokers’ Lives
5. Don’t Block Escape Route For Smokers, Say Activists
6. Vapes Are Best Tool To Help Smokers Quit

A Twitter (X) campaign was also conducted with the following Hashtag:

**a) #HarmReductionKE**

The press statements were followed by generous media coverage on ‘smokefree’ views during the May 2024 public participation forums .

It’s important to note that these ‘smoke-free’ tobacco products are still addictive. Further, they have multiple negative health effects that, over the long term, are still not clear enough.

The government has still not implemented the GHWs on nicotine pouches, whose popularity was dented by the media campaign. However, the nicotine pouches now carry 30% (front) and 50% (back) text warnings (see image below). The TCA indicates these warnings should include pictograms (GHW), which means the nicotine pouches being sold are not compliant with mandated regulation Kenya.

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<sup>47</sup>Philip Morris International. (n.d.). Harm reduction. PMI Science. Retrieved February 11, 2025, from <https://www.pmiscience.com/en/smoke-free/harm-reduction/>

<sup>48</sup>Odhiambo, O. (2024, May 3). Stakeholders reject tobacco graphic health warnings. The Standard. Retrieved from <https://www.standardmedia.co.ke/health/health-science/article/2001494383/stakeholders-reject-tobacco-graphic-health-warnings>

<sup>49</sup>Kenya News Agency. (2024, May 7). Health experts propose amendments to tobacco graphics. Kenya News Agency. <https://www.kenyanews.go.ke/health-experts-propose-amendments-to-tobacco-graphics/>

<sup>50</sup>Centers for Disease Control and Prevention. (2025, January 31). Nicotine pouches. U.S. Department of Health and Human Services. <https://www.cdc.gov/tobacco/nicotine-pouches/index.html>



# RECOMMENDATIONS

To uphold public health priorities, Kenya must adopt a multi-pronged approach:

**Strengthen Enforcement Mechanisms:** The Ministry of Health and the Tobacco Control Board must strictly enforce existing regulations. This includes ensuring all nicotine pouches feature both text and pictorial health warnings as stipulated under the TCA. Regular monitoring and punitive measures for non-compliance should be prioritized.

**Address Regulatory Gaps:** Comprehensive guidelines specific to nicotine pouches and other emerging products should be developed. This would prevent companies from exploiting ambiguities in existing laws. The government must also streamline inter-ministerial coordination to prevent conflicting directives.

**Reduce Industry Influence:** Stricter rules on lobbying and corporate interactions with government agencies are critical. Transparency in policy formulation, alongside public health stakeholders' involvement, can mitigate undue influence. Kenya should align with WHO Framework Convention on Tobacco Control (FCTC) Article 5.3, which mandates measures to protect public health policies from tobacco industry interference. The industry must be stopped from influencing public policies through letters to the Cabinet Secretary.

**Educate The Public:** Public awareness campaigns highlighting the risks of nicotine pouches and exposing industry manipulation are essential. Collaborations with schools, health organizations, and civil society can amplify these messages. These campaigns should also be channeled through the media, which has been used to promote the harm reduction narrative.

**Engage the Judiciary:** Given BATK's history of legal challenges to public health laws, proactive legal strategies are necessary. Robust defense teams must be prepared to counter industry litigation that seeks to delay or dilute regulatory enforcement.

**Learning from Global Practices:** Other nations offer valuable lessons in dealing with tobacco industry interference. For instance, Australia has implemented plain packaging laws with strict GHW requirements, despite industry pushback. Similarly, the UK enforces health

warnings on nicotine pouches, emphasizing their addictive nature and health risks. Kenya can adapt these models while addressing its unique socio-economic context.

**Leveraging Media and Civil Society:** The media plays a crucial role in combating misinformation. Training journalists to report ethically and independently on tobacco-related issues can counter biased narratives. Civil society organizations must also be empowered to advocate for strong tobacco control policies and hold the government accountable. The Solatium contributory fund should be used effectively in this regard.

## Study Limitations

### 1. Limited Access to Industry Documents

While the study uncovers significant interference by BATK, access to comprehensive internal documents from the tobacco industry was restricted. This limitation may have prevented deeper insights into the full extent of the company's strategies and influence.

### 2. Inconsistent Government Responses

The report highlights conflicting directives from different government agencies, such as the Ministry of Health and the Ministry of Trade, which complicate the enforcement of tobacco control regulations. This lack of unified action undermines efforts to gather clear evidence on the effectiveness of government interventions.

### 3. Potential Media Bias

BATK's significant use of media campaigns to promote harm-reduction narratives likely influenced public opinion and potentially affected the neutrality of some media reports. This made it challenging to assess public perception independently.

### 4. Data Gaps on Youth Uptake

Although the report identifies increased youth uptake of nicotine pouches due to targeted marketing strategies, there is limited quantitative data on the prevalence and impact of these products among specific age groups.

### 5. Resource Constraints

The enforcement of tobacco control regulations and monitoring industry activities requires substantial resources. The study identifies gaps in the capacity of agencies such as

the Tobacco Control Board to effectively implement and oversee regulations due to funding limitations.

## 6. Judicial Delays

The legal system's slow pace in resolving cases brought by BATK delayed the enforcement of critical tobacco control policies. This delay complicates the ability to provide timely solutions to public health challenges posed by nicotine pouches.

## Conclusion

Kenya's progress in tobacco control is at a crossroads. The tobacco industry's interference in enforcing graphic health warnings on nicotine pouches threatens to undermine years of public health gains.

By strengthening enforcement, closing regulatory gaps, and reducing industry influence, Kenya can reaffirm its commitment to public health. Collaborative efforts between the government, civil society, and international bodies are essential to protect Kenyans from the harmful effects of tobacco products and ensure a healthier future.

## Additional References

1. Key dates in the Kenyan tobacco-control journey. Published by the Kenya Tobacco Control and Health Promotion Alliance (KETCA). <https://ketca.org/timeline/>
2. Kenya embarks on developing Pictorial Health Warnings (PHWs) for packages of tobacco products. Published by the Center for Tobacco Control in Africa (CTCA). <https://ctc-africa.org/kenya-embarks-on-developing-pictorial-health-warnings-phws-for-packages-of-tobacco-products/>
3. Kenya imposes tough cigarette packaging rules. Published by Capital Business. <https://www.capitalfm.co.ke/business/2015/02/kenya-imposes-tough-cigarette-packaging-rules/>
4. How British American Tobacco lobbied Kenya to water down nicotine pouch warnings. Published by The Guardian. <https://www.theguardian.com/global-development/2024/jan/23/how-big-tobacco-forced-kenya-to-temper-nicotine-pouch-warning-labels>
5. Report calls out tobacco industry for interference. Published by The Standard. <https://www.standardmedia.co.ke/crop/article/2001382913/report-calls-out-tobacco-industry-for-interference>
6. Nicotine Pouches. Published by Tobacco Tactics based at the University of Bath. <https://www.tobaccotactics.org/article/nicotine-pouches/#:~:text=83%2084-,Kenya,the%20country%20in%20December%202019.&text=In%20February%202020%2C%20the%20company,export%20hub%20for%20the%20product>
7. BAT reverses ban to relaunch nicotine pouches in Kenya. Republished by Africa Tobacco Control Alliance (ATCA). <https://atca-africa.org/bat-reverses-ban-to-relaunch-nicotine-pouches-in-kenya/>
8. BAT reverses ban to relaunch nicotine pouches in Kenya. Published by The Africa Report. <https://www.theafricareport.com/234861/bat-reverses-ban-to-relaunch-nicotine-pouches-in-kenya/>
9. Report: "TOBACCO INDUSTRY INTERFERENCE IN KENYA: Exposing the tactics. Revised Edition, January 2013. Published by the Ministry of Public Health and Sanitation (MoPH&S) and the International Institute for Legislative Affairs (ILA).

## Timeline: Exchange of Letters Between Kenya's Ministry of Industrialization/ Ministry of Health and BAT Kenya (2020–2024)

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### 1. April 14, 2020 (Referenced as Letter 1 2020)

Letter Writer: Betty C. Maina, Cabinet Secretary, Ministry of Industrialization, Trade and Enterprise Development

Recipient: Health Cabinet Secretary Mutahi Kagwe

Subject line: Supporting manufacturing investment of Kshs2.5 billion in Kenya for domestic and export markets.

Brief: The Ministry of Industrialisation asks the Ministry of Health to consider dialogue with BAT-K regarding the categorisation of LYFT which hinders the local manufacture, advertising of the LYFT oral nicotine pouch.

### 2. May 21, 2020 (Letter 2 2020)

Letter Writer: Health Cabinet Secretary Mutahi Kagwe

Recipient: Betty C. Maina, Cabinet Secretary, Ministry of Industrialization, Trade and Enterprise Development

Subject line: Manufacturing investment of Kshs2.5 billion in Kenya for domestic and export markets.

Brief: The Ministry of Health raised concern that LYFT is banned in some countries and its composition and health effects are not well known. Ministry of Health says it cannot act on the request by Ministry of Industrialization.

### 3. January 21, 2021 (Letter 3 2021)

Letter Writer: Mutahi Kagwe, Cabinet Secretary, Ministry of Health

Recipient: Crispin Achola, Managing Director, BAT-Kenya Plc

Subject line: Nicotine Pouches 'LYFT' sold in Kenya

Brief: The Ministry of Health advises BAT-K that nicotine pouch LYFT would henceforth be regulated under Tobacco Control Act and would be expected to comply with all requirements of that act, and the 2014 Tobacco Control Regulations, which specifically mandates pictorial health warnings.

### 4. February 9, 2021 (Letter 4 2021)

Letter Writer: Tobacco Control Board (TCB)

Recipient: BAT-Kenya Plc

Subject line: (Copy of letter not available)

Brief: This letter from TCB mandated BAT-K to ensure its nicotine pouches (LYFT), comply with the Tobacco Control Act and the 2014 Tobacco Control Regulations' packaging and labelling requirements within 21 days from 9 February, 2021.

### 5. February 18, 2021 (Letter 5, 2021)

Letter Writer: Crispin Achola, Managing Director, BAT-Kenya Plc

Recipient: Mutahi Kagwe, Cabinet Secretary, Ministry of Health

Subject line: Nicotine Pouches 'LYFT' sold in Kenya

Brief: BAT Kenya acknowledges receiving letter from TCB dated 9 February 2021, ordering compliant packaging and labelling requirements within 21 days from 9 February, 2021. BAT-K indicates it would need 9-12 months to comply.

The company further proposes amendment of the TCA and the regulations to remove oral nicotine pouches from the purview of these laws.

### 6. September 7, 2021 (Letter 6 2021)

Letter Writer: Crispin Achola, Managing Director, BAT-Kenya Plc

Recipient: Mutahi Kagwe, Cabinet Secretary, Ministry of Health

Subject line: Health warning labelling requirements for oral nicotine pouches

Brief: BAT-K requests the Cabinet Secretary for Health to allow its nicotine pouches to be sold without GHWs, but only to bear a text-only warning covering about 10 per cent of the pack area.

**7. October 4, 2021** (Letter 7 2021)

Letter Writer: Health Cabinet Secretary Mutahi Kagwe

Recipient: Crispin Achola, Managing Director, BAT Kenya

Subject line: Health warning labelling requirement for oral nicotine pouches

Brief: The Ministry of Health allows BAT-K not to carry GHWs on its oral nicotine pouches. Ministry mandates the pouches carry text-only warnings, covering 15 per cent of the front of the pack and 25 per cent of the back.

**8. May 13, 2022**

Letter Writer: Crispin Achola, Managing Director, BAT Kenya

Recipient: Health Cabinet Secretary Mutahi Kagwe

Subject line: (Copy of letter not available)

Brief: BAT sends samples of the packaging of its new oral nicotine pouch 'Velo' (previously known as LYFT) to the Ministry of Health to confirm it has complied with requirement of text only warning, covering 15 per cent of the front of the pack and 25 per cent of the back.

**9. July 15, 2022** (Letter 8 2022)

Letter Writer: Health Cabinet Secretary Mutahi Kagwe

Recipient: Crispin Achola, Managing Director, BAT Kenya

Subject line: Health warning labelling requirement for oral nicotine pouches

Brief: In response to the May 13, 2022 letter from BAT-K, Ministry of Health confirms the samples of packaging that BAT-K submitted carry the text warnings as agreed. However, the Ministry admits the schedule of the TCA 2007 indicates a warning should cover not less than 30% of the front of the pack and not less than 50% of the back. Subsequently, from 1st July, 2023, the oral nicotine pouches should comply with that provision.

**10. August 4, 2023**

Letter Writer: Crispin Achola, Managing Director, BAT Kenya

Recipient: Mary Muthoni, Principal Secretary, Ministry of Health

Subject line: Health warning labelling requirement for oral nicotine pouches

Brief: BAT-K says it has complied and its oral nicotine pouches carry text-only warning covering not less than 30% of the front of the pack and not less than 50% of the back. BAT-K asks the ministry not to change this directive. BAT-K indicates that it has invested a Kshs2.5 billion oral nicotine manufacturing plant in Nairobi.

**11. October 12, 2023**

Letter Writer: Crispin Achola, Managing Director, BAT Kenya

Recipient: Mary Muthoni, Principal Secretary, Ministry of Health

Topic: (Copy of letter not available)

Brief: BAT Kenya asks the Ministry of Health to provide it with clearance to begin manufacturing oral nicotine pouches in Nairobi. BAT-K also asks for the ministry's help in clearance of a cargo of nicotine pouches held at the Kenya port of entry for suspected non-compliance.

**12. November 27, 2023**

Letter Writer: Mary Muthoni, Principal Secretary, Ministry of Health

Recipient: Crispin Achola, Managing Director, BAT Kenya

Subject line: Request for clearance -local manufacturing and importation of oral nicotine pouches.

Brief: The Ministry of Health asks BAT-K to provide more documentation and a report of the contents of the oral nicotine pouches being held at the point of entry into Kenya.

**13. November 30, 2023**

Letter Writer: Crispin Achola, Managing Director, BAT Kenya

Recipient: Mary Muthoni, Principal Secretary, Ministry of Health

Subject line: Request for clearance -local manufacturing and importation of oral nicotine pouches.

Brief: BAT Kenya provides necessary documentation to the Ministry of Health for help in clearance of oral nicotine pouches held at the port of entry into Kenya.

**14. December 5, 2023**

Letter Writer: Mary Muthoni, Principal Secretary, Ministry of Health

Recipient: Crispin Achola, Managing Director, BAT Kenya

Subject line: Request for clearance -local manufacturing and importation of oral nicotine pouches.

Brief: The Ministry of Health declines to sanction clearance of the shipment of oral nicotine pouches. The ministry says the pouches do not have graphic health warnings as required by the law.

**15. January 19, 2024**

Letter Writer: Crispin Achola, Managing Director, BAT Kenya

Recipient: Mary Muthoni, Principal Secretary, Ministry of Health

Subject line: Request for clearance -local manufacturing and importation of oral nicotine pouches.

Brief: BAT Kenya says countries where oral nicotine pouches are sold require only text warning. It therefore urged the Ministry of Health to sanction clearance of the shipment held at the point of entry.

This timeline combines concise content summaries for each letter, giving a clear narrative of the exchanges between the Ministry of Health and BAT Kenya. The letters are available and can be provided on request.





