

# Detrás del humo: Una mirada a la industria tabacalera en Chile, sus redes y los límites de la regulación y la transparencia frente a las Elecciones Presidenciales 2009

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## Executive Summary

This report, “Behind the Smoke: A Look at the Tobacco Industry in Chile, its Networks and the Limits to Regulation and Transparency in the Context of the 2009 Presidential Elections,” examines the power of the tobacco industry in Chile and, specifically, Chiletabacos, the British American Tobacco (BAT) affiliate that controls over 95% of the market.

While Chile has made important advances in tobacco control since it ratified the Framework Convention on Tobacco Control (FCTC) and new legislation (Law 20.105) in 2006, it has not yet made a dent in smoking prevalence rates that are among the highest in Latin America. Chilean legislation falls short of several key FCTC commitments, including comprehensive smoke-free legislation and tax increases. Both of these positions are strongly opposed by the tobacco industry.

Chiletabaco's Board of Directors comes from the highest ranks of Chile's industrial, financial and political elite, including a former Minister of Economy and a former Constitutional Tribunal member who were both in office during the discussion of the 2006 law. Another director, a former Minister of Mining, is the board president of an NGO —partially financed by Chiletabacos— dedicated to monitoring government accountability and transparency. Chile's new (2009) law for Transparency in Public

Administration was enacted without provisions to regulate lobbying and the revolving door between regulated industry and government regulator. The 2003 Electoral Spending Controls Law does not mandate full disclosure of corporate contributions to political campaigns, as recommended by Art. 5.3 guidelines adopted by the FCTC in 2008.

Where regulation does appear to be working, albeit slowly, is in regards to Chiletobacos' monopoly practices. The country's National Economic Regulator (FNE) has decreed its maximum fine (US\$17 million) against Chiletabacos for reiterated abuse of the free competition laws. Rival transnational Philip Morris International is seeking US\$137.5 million from Chiletabacos as indemnity for its lost share of the Chilean market.

This report was released in tandem with a survey, “Clearing the Air on Policies to Control Tobacco and the Tobacco industry,” of the proposals on these issues from candidates running for President in the 2009 elections. Both reports received support from the Framework Convention Alliance and are posted on the website ([www.epes.cl](http://www.epes.cl)) of EPES (Popular Education in Health) Foundation, a Santiago-based NGO that promotes the health and dignity of low-income sectors in Chile.