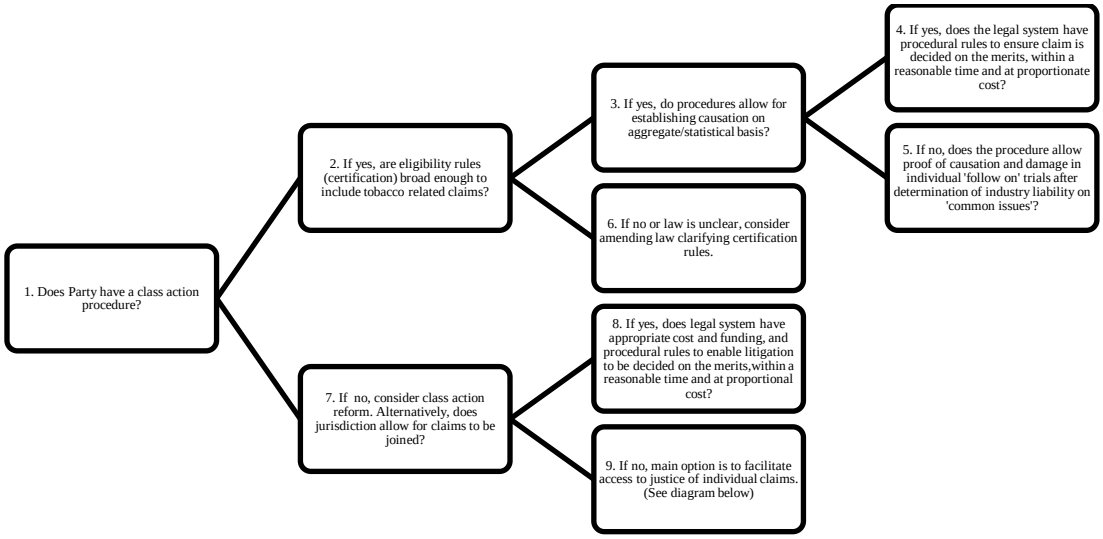
SCENARIO 1: FACILITING ACCESS TO JUSTICE THROUGH COLLECTIVE ACTION ADDENDUM/LINK

1. DIAGRAM



2. BENEFITS AND RISKS

Key Benefits	Key Risks/Costs
• **Significantly reduces power imbalance between tobacco industry defendants and tobacco related** • **Substantial economies of scale** • **Substantial savings to taxpayer from the avoidance of multiple individual proceedings** • **Directs focus on industry conduct rather than behaviour of individual smokers**	• **None when utilised (though some rules that amend the substantive law applied in class actions could be subject to constitutional challenge).** • **Principal historical challenge is convincing courts that tobacco claims are suitable for collective treatment.**

Discussion of benefits and challenges (risks/costs)

Dedicated class action procedures allow victims of smoking-related diseases to pool resources in order to pursue liability claims with similar features—a major benefit to this approach. This represents a powerful mechanism for minimizing the power imbalance between the tobacco industry and tobacco disease victims. In almost every tobacco-related action, at least one common issue arises which, where the legal system allows, could be resolved on a class-wide basis. Doing so would save significant resources for claimants and those funding the litigation, save courts time (by hearing the common issues together), and minimize the risk of inconsistent judgments.

To date, some jurisdictions have been more willing than others to certify or permit tobacco class actions. In jurisdictions that do not currently have provisions for class action procedures, legislation could be introduced that would enable class actions to be undertaken. In addition, a range of additional legislative options are available to facilitate efficient use of class action procedures even where they are already available, and to provide clear rules specifying when tobacco-related claims are suitable for class action treatment. The only major challenge is convincing the courts that tobacco claims are suitable for collective treatment.