

TOBACCO INDUSTRY INTERFERENCE

IN THE WHO EUROPEAN REGION



World Health
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REGIONAL OFFICE FOR Europe

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Tobacco industry interference in the WHO European Region

Acknowledgements

WHO selected tobacco industry interference as the theme of the 2012 World No Tobacco Day, recognizing the serious danger the tobacco industry poses to public health and the need to expose and counter the industry's increasing attempts to undermine the WHO Framework Convention on Tobacco Control (WHO FCTC).

Although lower demand for tobacco products sounds like a positive trend for society at large, the tobacco industry does not perceive it as such. Like any other business, the goal of tobacco companies is to make profit. As such, they can only be alarmed by the prospect of losing customers as a result of effective tobacco control measures. The tobacco industry fights the adoption of evidence-informed and strong tobacco control measures – most often behind the scenes. To this end, the tobacco industry has developed many tactics for decades.

Understanding the tobacco industry's practices is crucial for the success of tobacco control policies. This brochure complements the global World No Tobacco Day 2012 brief: *Tobacco industry interference – a global brief*. It provides unique insight into the WHO European Region and how the industry opposes the adoption of effective tobacco control measures. It also provides very concrete and valuable examples of actions and measures that have been taken by governments in the Region, in accordance with Article 5.3 of the WHO FCTC. It is intended to be both informational and inspirational for countries to fight and win the battle against tobacco.

Many people contributed to the production and success of this brochure: Kristina Mauer-Stender, Rula Khoury, Yulnara Kadirova, Céline Brassart (primary author), Kristina Donaldson, David Breuer (text editing) and Lars Møller (layout and design). The cover photo was adapted from *Tobacco industry interference – a global brief*.

The fight against the tobacco epidemic versus the economic interests of the tobacco industry

Nearly 6 million people die each year from the global tobacco epidemic (1). Tobacco is the only product that kills 50% of its users when used exactly as intended. If no serious action is taken, up to 1 billion people could die from tobacco use in the 21st century (1). The WHO European Region is not spared by the tobacco epidemic: smoking accounts for up to 21% of deaths and 12–20 years of life lost per person who smokes (1).

In recent decades, measures to curb the tobacco epidemic have been developed and have proved to be very effective. As such, many countries around the world, including those in the WHO European Region, have adopted a combination of tax measures, labelling regulations and smoking and advertising bans. When properly drafted and implemented, these measures greatly influence the prevalence of tobacco use and result in a lower demand for tobacco products.

However, although lower demand for tobacco products sounds like a positive trend for society at large, the tobacco industry does not perceive it as such. Like any other business, the goal of tobacco companies is to make profit. As such, they can only be alarmed by the prospect of losing customers as a result of effective tobacco control measures. The only option for the tobacco industry is to fight (most often behind the scenes) the adoption of evidence-informed and strong tobacco control measures. To this end, the tobacco industry has developed many tactics for decades.

Common tactics used by the Tobacco Industry

- Interfering with the legislative process to prevent the adoption of evidence-informed and strong tobacco control measures;
- Using front groups to hide its actions;
- Questioning the evidence of the harm caused by tobacco use and the effectiveness of tobacco control policies; and
- Appearing responsible to the public, journalists and policy-makers.

The WHO Framework Convention on Tobacco Control (FCTC) (2), which has been ratified by 175 countries, requires each party to effectively adopt and implement tobacco control measures. To ensure the full effectiveness of the Convention, Article 5.3 of the WHO FCTC and its guidelines (3) address the issue raised by tobacco industry's interference and provide guidance on how to tackle it. This brochure provides an overview of tobacco industry interference. It then examines the existing means to curb the tobacco industry's efforts to undermine tobacco control policies.

How does the tobacco industry oppose the adoption of effective tobacco control measures in Europe?

What is the "tobacco industry" in the WHO European Region?

The WHO FCTC defines the "tobacco industry" as "tobacco manufacturers, wholesale distributors and importers of tobacco products" (2). In Europe, the tobacco industry comprises several companies. Among these companies, Philip Morris has held a dominant position during the past decades, with a 36% share of the market at the beginning of 2003 (4). The other major companies in the region are Gallaher, Imperial, British American Tobacco and Japan Tobacco International.

How and why do tobacco companies use front groups?

In addition to the tobacco companies and entities previously mentioned, the tobacco industry has many direct and indirect ramifications that may not be apparent to the public. Tobacco companies are aware of their poor public image and often hide and act behind front groups. These front groups are directly or indirectly tied to the tobacco industry and give the impression of being neutral and legitimate. This allows the tobacco industry to claim that it is supported by other groups and adds credibility to its arguments. As such, retailers' associations and smokers' groups have been used and sometimes even created and funded by the tobacco industry to serve its interests.

One example is the use of retailers' associations and smokers' groups in the European Union (EU) consultation process on the revision of the Tobacco Products Directive to delay the revision process. In 2010, the European Commission launched an online consultation for the revision of the Tobacco Products Directive of 2001. Stakeholders were invited to choose policy options for the revised Tobacco Products Directive. Previous consultations run by the European Commission usually got between

50 and 500 responses. This time, more than 80 000 responses were received, mostly because the tobacco industry mobilized retailers and smokers' groups across the European Union; they were often provided sample answers by the tobacco industry and simply had to send their response by clicking on a link. This tactic was very effective, particularly in delaying the work of the European Commission, which had to deal with dozens of thousands of responses.

Another example is creating and using smoker's rights groups in European countries to have a legitimate voice and create a debate. Between 1979 and 1995, the tobacco industry created (and often funded) smokers' rights groups in at least 13 European countries. As a tobacco company's internal document said, "smoking groups have no commercial interest and are a more credible voice than the tobacco industry" (5,6). The function of these groups was to feed the debate about second-hand smoke and create confusion by focusing on "smokers' rights" rather than on how tobacco smoke affects health (5,6).

How does the tobacco industry interfere with political and legislative processes?

To prevent evidence-informed and strong tobacco control measures from being adopted, the tobacco industry uses several tactics to influence the legislative process, such as building political alliances, delaying the legislative process and pushing for voluntary agreements or minimum regulations.

An example of this is the tobacco industry's intense lobbying efforts to undermine the adoption of the EU Advertising Ban Directive. From 2000, the tobacco industry felt particularly threatened by the adoption of this directive and tried to preserve the "major marketing freedoms in Europe" (5,7). The goal was to "secure [an] agreement on a minimum harmonisation directive, voluntary code or another acceptable compromise" (5,7) by such initiatives as (5,7):

- *Lobbying key decision-makers in Member States to maintain a blocking minority of Member States against the directive;*
- *Working "to undermine confidence in pro-ban studies and data, and inform of political changes that make compromise feasible"; and*
- *"Prepare and disseminate legal argument that Article 129 of Maastricht prevents the [European Commission] from banning advertising".*

How does the industry manipulate scientific evidence and the mass media to create doubt?

For decades, hundreds of studies have proven that smoking and second-hand smoke are harmful to health. To undermine the effectiveness of such evidence, the only tactic of the tobacco industry is to create doubt. To do this, it uses “experts” that have been funded by the tobacco industry and are interviewed in the media.

An example is creating a network of consultants in Europe to create doubt about the risks of second-hand smoke. In the 1990s, the tobacco industry established an international network of scientific and medical “experts” to produce “evidence” against the harmfulness of second-hand smoke. The goal was to avoid the adoption of smoke-free regulations (8). The experts were contacted through a law firm and only learned gradually that the programme was on behalf of the tobacco industry. Several conferences were organized using this network of experts in which the participation of the tobacco industry was not apparent (8).



Another example is “educating” journalists and conducting training programmes in Europe. The tobacco industry is particularly willing to disseminate their side of the story to the media and to appear in a good light. To this end, the tobacco industry created a “European journalist intern program” to facilitate “the care and feeding of trained journalists, who would write articles supporting the industry’s position” (4,9). Similarly, it developed a “communication program to educate journalists on the specific issues surrounding environment tobacco smoke” (4,9). The tobacco industry also recognized that “the increased quality and frequency of our contacts with the media and a greater flow of usable information to key journalists” resulted in the inclusion of the industry’s “side of any tobacco-related story” (4,9).

How does the tobacco industry try to convey a responsible and respectable image in the public and among policy-makers?

The tobacco industry uses corporate social responsibility programmes such as youth programmes and charity donations to convey a positive and respectable image among the public and policy-makers.

An example is the MTV youth advertising campaign in 38 European countries. In 2001, several tobacco companies launched a joint advertising campaign on MTV Europe, which they claimed was designed to persuade teenagers between 12 and 17 years old in 38 countries not to smoke (10). The campaign’s main message was “It is possible to be cool and not smoke”. It is very doubtful that a single-medium campaign targeted at such a diverse group could have a real impact (10). As such, it has been noted that “the true point of this campaign was to persuade the political and media establishment that the tobacco industry is a responsible and ethical sector of business, which should not be subject to strict regulation ...” (10). It is not a coincidence that this campaign was launched at a time when the EU and several governments were committing to adopting advertising bans (10).

What can be done to curb the tobacco industry interference?

What do Article 5.3 of the WHO FCTC and the guidelines require?

The WHO FCTC recognizes the seriousness of tobacco industry interference and its consequences on tobacco control actions. The parties to the WHO FCTC have therefore committed themselves to implementing Article 5.3, which states the following:

In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

The guidelines on the implementation of Article 5.3 of the WHO FCTC, which the Parties adopted unanimously, recognize that there is a “fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests” (3). The guidelines add that the parties should be accountable and transparent when dealing with the tobacco industry (3) and that they should not give any incentives to tobacco companies to run their businesses (3). They also require transparency and accountability from the tobacco industry (3).

What concrete actions and measures can governments take?

Raise awareness of tobacco industry interference

To effectively implement WHO FCTC Article 5.3 and the guidelines, governments must raise awareness about tobacco industry interference. It is crucial that the government spread information among policy-makers about the tactics tobacco companies and lobbyists use in the political arena.

An example is sending letters to government ministers. In the United Kingdom, the Ministry of Health sent letters to all government ministers, including to the Prime Minister, drawing attention to the WHO FCTC and the duties arising from Article 5.3 of WHO FCTC and the guidelines.

Another example is adopting a circular on tobacco industry interference. In Turkey, the Tobacco and Alcohol Market Regulatory Authority issued a circular in 2011 on corporate principles for protecting public health policies from commercial and other vested interests of the tobacco industry. Adopting official instruments is an excellent way to raise awareness of the tobacco industry interference and the ways to tackle it.

Adopt and disseminate clear guidance and regulations for public officials

To ensure effective implementation of Article 5.3 of the WHO FCTC, clear regulations should be in place to limit the interaction between decision-makers and the tobacco industry.

Possible actions by government

- Limiting meetings with the tobacco industry or at least requiring the disclosure of such meetings;
- Prohibiting any financial or other help from the tobacco industry to public officials, political campaigns or parties;
- Preventing public officials from supporting or endorsing tobacco industry's attempts to organize, promote, participate in or implement youth, public education or other initiatives that are directly or indirectly related to tobacco control;
- Requiring that public officials declare any conflicts of interest;
- Not giving incentive to tobacco companies to run their business

An example of this is disclosing and publicizing meetings with the tobacco industry. The 2011 National Tobacco Strategy of England requires government officials to publish the details of any policy-related meetings between the tobacco industry and any government officials. Similarly in the process of the revision of the Tobacco Products Directive (since 2010), the European Commission Directorate-General for Health and Consumers has ensured transparency by publishing the minutes of all meetings with interested stakeholders, including the tobacco industry.

Another example is requiring people to declare that they have no conflict of interest. Members of Serbia's National Tobacco Control Council have to sign a declaration pledging no conflict of interest between their official functions and any past or present dealings with the tobacco industry.

Regulate the tobacco industry

Governments should regulate tobacco companies as much as possible by prohibiting or regulating some of their activities such as corporate social responsibility activities and setting disclosure requirements (such as marketing expenses).

For example, the law in Hungary (11), Israel (12) and Sweden (13) requires tobacco companies to publish their expenses related to tobacco product advertising, promotion and sponsorship. In Israel and Sweden, the tobacco industry must produce a report and

communicate it to official bodies. In Hungary, tobacco companies are required to publish such information on their web site and in at least two daily newspapers.

Do not provide incentives to the tobacco industry

An example of not providing incentives is Norway's Ministry of Finance deciding in 2010 to exclude 17 companies that produce tobacco from investment by the Government Pension Fund.

What can nongovernmental organizations, civil society, academics and individuals do to tackle tobacco industry interference?

These groups can raise awareness about tobacco industry interference among policy-makers and the general public. They can denounce tobacco industry interference to the mass media, parliamentarians and government. They can also identify the front groups and allies used by the tobacco industry and monitor compliance of the tobacco industry with tobacco control laws.

Conclusion

The WHO FCTC is the most powerful legal tool for tobacco control. It has been ratified by 175 countries around the world. The Parties must comply with Article 5.3 of the WHO FCTC and follow the guidelines on Article 5.3, which have been adopted by all the Parties. To effectively tackle tobacco industry interference, countries should strive to learn from each other and share experiences. The purpose of World No Tobacco Day this year is to raise awareness about tobacco industry interference and its actions. It also aims to provide momentum for more exchange between countries regarding their experience with tobacco industry interference and find effective ways to jointly fight the opposition of the tobacco industry to tobacco control measures.

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