

Tobacco industry tactics

Whether selling its new products or traditional cigarettes, the tobacco industry uses the same tactics to create barriers to life-saving tobacco control measures.

Research – the industry works to discredit proven science by sponsoring and promoting research.

Law – the industry uses lawyers and front groups to aggressively lobby for pro-industry measures, influence the political and legislative process, and intimidate governments with the threat of litigation.

Public relations – the industry promotes misinformation, either directly or through front groups, to exaggerate the economic importance of the industry and its positive role in society.

Introduction

In 2018, all Parties to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) agreed to aim for a 30% relative reduction in the age-standardized prevalence of current tobacco use in persons aged 15 years and over by 2025 (1). To achieve this target, it is imperative to overcome barriers to effective implementation of the WHO FCTC. The main barrier is tobacco industry interference, and the key solution is protecting tobacco control policies from the commercial and vested interests of the tobacco industry (Article 5.3 of the WHO FCTC).

The tobacco industry argues that tobacco control policy:

- will not work/is not needed
- is not backed by evidence
- causes unemployment
- causes loss of business
- causes loss in government revenue
- causes increase in smuggling, smugglers will profit
- breaches trade or investment agreements (investor protection or discrimination)
- breaches intellectual property laws
- is unfair to the poor (regressive)
- is unfair to smokers
- is unfair to farmers/employees
- is illegal, beyond the authority of the regulator

Countering tobacco industry interference is crucial not only for traditional cigarettes, but for all other tobacco products, including waterpipes, electronic nicotine delivery systems (ENDS) (including e-cigarettes) and novel tobacco products (including heated tobacco products). Therefore, governments are urged to take positive steps to implement WHO FCTC Article 5.3 when developing policies on ENDS and novel tobacco products (2-4).

The tobacco companies' investment in ENDS and novel tobacco products pose a new challenge in tobacco control policy development and implementation (5). Although 11 countries in the Region (as of 2017) have banned e-cigarettes, most governments are not shielded from the tobacco industry's attempts to promote misinformation and overturn such bans. Governments in the Region may still be swayed by a tobacco industry that is set to dominate the e-cigarette industry (6). In countries that have not banned e-cigarettes, smoke-free policies could be undermined as the tobacco industry tries to redefine the smoke-free future to popularize vaping. Even in countries that have banned e-cigarettes, tobacco companies may use novel tobacco products as a means to access policy-makers and undermine WHO FCTC implementation (7).

Furthermore, the tobacco companies' funding, disguised as philanthropic contributions (for example, the Foundation for a Smoke-Free World) leaves scientists, local officials, enforcement officials, nongovernment organizations, think tanks and advocates in various sectors (such as academia, agriculture, customs and labour) vulnerable to manipulation. This is especially true for the (majority of) countries in the Region that have not banned so-called corporate social responsibility (CSR) and related activities by the tobacco industry. To pre-empt these evolving tactics, in 2018 the eighth session of the Conference of the Parties (COP) to the WHO FCTC encouraged governments to ban or denormalize the tobacco industry's activities, including those activities described as socially responsible, and to strengthen monitoring of tactics especially "...tobacco industry or related third-party funding among research institutions, target government agencies, and pertinent international intergovernmental and nongovernmental organizations." The COP also highlighted the importance of "policies that would prevent the use of such institutions' research outputs in the policy" (8).

Monitoring of, and raising awareness about, tobacco industry tactics – along with adopting policies that are aligned with the Guidelines for implementation of Article 5.3 of the WHO FCTC – will safeguard the progress made in tobacco control.

Who are the tobacco industry?

The tobacco industry does not just include tobacco companies and tobacco-funded organizations. Fig. 1 shows the other organizations, institutions and sectors that fall under a definition of the "tobacco industry".

Fig. 1. Supply and sale chain, allies, third parties and front groups



Source: World Health Organization 2012 (9).

Interference tactics used in the Region

The tobacco industry's internal documents from the 1970s to the 1990s show how tobacco transnationals lobbied the Gulf Cooperation Council countries to undermine reforms relating to smoking bans, advertising bans, product regulation and tobacco taxation (10). Tactics included playing on the health ministries' concerns for youth in order to: focus their attention on youth smoking prevention programmes and detract from comprehensive advertising bans (Lebanon and United Arab Emirates); use pseudo-scientific arguments to confuse the public (Saudi Arabia); work directly with standards officials to control product testing processes (Bahrain, Kuwait and Saudi Arabia); and even using Ramadan to promote light/mild cigarettes that are marketed as safer versions of traditional cigarettes (10).

In 2017, Philip Morris International reportedly used CSR to access high-level officials in Egypt, Jordan, Lebanon, Morocco, Pakistan, Tunisia and the United Arab Emirates (11). The tobacco industry continues to use so-called CSR to access high-level policy-makers, including those in non-health sectors.

Non-transparent meetings between government and the tobacco industry give a negative impression due to the industry's soiled reputation for unethical lobbying (12, 13), complicity in smuggling (14, 15), and conspiracy to defraud the public (16).

Types of tobacco industry interference

The tobacco industry aims to defeat or weaken evidence-based tobacco control policies. When it fails to succeed, the tobacco industry will work to either delay implementation or have legislation overturned, or simply fail to comply or encourage noncompliance. Global studies on tobacco industry tactics, including analysis of its internal documents, show the industry employs multi-pronged strategies to achieve its goals – by utilizing research, law and public relations to undermine public health (see Box 1).

Box 1. Six main forms of tobacco industry interference

1. Discrediting proven science
2. Conspiring to hijack the political and legislative process
3. Intimidating governments with litigation or the threat of litigation
4. Exaggerating the economic importance of the industry
5. Manipulating public opinion to gain the appearance of respectability
6. Faking support through front groups

Source: World Health Organization, 2012 (9).

Research tactics

The tobacco industry tries to undermine science by:

- funding scientists to push pro-tobacco studies and sow confusion about legitimate science;
- creating scientific forums to disseminate pro-tobacco studies;
- misrepresenting the costs of regulation/compliance and its economic impact.

Legal tactics

The tobacco industry conspires to influence policy by:

- providing draft policy or provisions that include pro-industry language, enforcement loopholes or limiting language (e.g. "as appropriate" or "knowingly");
- promoting policies that divert resources or funds away from tobacco control;
- diverting focus onto less effective tobacco control measures such as youth access restrictions and cessation/dependence treatment.

Tobacco industry lobbying tactics include:

- providing campaign contributions either directly or indirectly to politicians or political parties;
- lobbying directly and through trade associations (e.g. American Chamber of Commerce);
- using procedural grounds or trade and investment protections to challenge tobacco control policies and threaten legislation.

The tobacco industry tries to intimidate governments by:

- using constitutional, procedural and other legal challenges against policies;
- using third parties as complainants;
- overwhelming government offices with requests/demands for information or evidence;
- using legal or administrative action, or threats thereof, to intimidate advocates or delay implementation.

Public relations tactics

The tobacco industry fakes support by:

- establishing and funding front groups;
- engaging third parties;
- developing alliances with farmers, retailers and vendors (see Box 2).

The tobacco industry executes a public relations and marketing strategy aimed at:

- controlling media content to show downsides of policy and promoting the arguments of front groups and third-party voices, focusing on skewed economic perspectives;

Box 2. Examples of tobacco industry allies

- Hospitality (bar, restaurants, hotels)
- Gambling and gaming
- Advertising
- Packaging
- Transport
- Chemical production
- Tobacco retailing
- Agriculture suppliers
- Tobacco growers' associations
- Labour unions
- Investment advisers
- Recipients of tobacco sponsorship
- Recipients of tobacco research funds

Source: World Health Organization 2012 (9).

- publically acknowledging the risks from smoking, but not accepting any accountability;
- minimizing past misdeeds by asserting that the industry has changed;
- promoting “safer” products;
- rehabilitating industry reputation and promoting itself as socially responsible;
- using philanthropy to associate the industry/company with positive causes and credible groups;
- painting tobacco advocates as extremists;
- portraying itself as reasonable and willing to engage in dialogue.

Guidelines for implementation of Article 5.3 of the WHO FCTC

The obligation to protect tobacco control policies from tobacco industry interference is embodied in Article 5.3 of the WHO FCTC. The Guidelines for implementation of Article 5.3, which were adopted by consensus at the third session of the COP in 2008, make eight recommendations for addressing industry interference in tobacco control policies.

Article 5.3 Guidelines

Recommendations

1. **Raise awareness about** the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties’ tobacco control policies.
2. **Establish measures to limit interactions** with the tobacco industry and **ensure the transparency** of those interactions that occur.
3. **Reject partnerships** and non-binding or non-enforceable agreements with the tobacco industry.
4. **Avoid conflicts of interest for government officials and employees.**
5. **Require that information collected** from the tobacco industry **be transparent and accurate.**
6. **Denormalize** and to the extent possible, regulate **activities described as “socially responsible”** by the tobacco industry, including but not limited to activities described as “corporate social responsibility”.
7. **Do not give privileged treatment to tobacco companies.**
8. Treat State-owned tobacco companies in the same way as any other tobacco industry.

Enforcement

Parties should put in place enforcement mechanisms or, to the extent possible, use existing enforcement mechanisms to meet their obligations under Article 5.3 of the Convention and the Guidelines.

Monitoring implementation of Article 5.3 and of the Guidelines

Monitoring implementation of Article 5.3 of the Convention and of the guidelines is essential for ensuring the introduction and implementation of efficient tobacco control policies. This should also involve monitoring the tobacco industry, for which existing models and resources should be used, such as the database on tobacco industry monitoring of the WHO Tobacco Free Initiative.

Nongovernmental organizations and other members of civil society not affiliated with the tobacco industry could play an essential role in monitoring the activities of the tobacco industry.

Codes of conduct or staff regulations for all branches of governments should include a “whistleblower function”, with adequate protection of whistleblowers. In addition, Parties should be encouraged to use and enforce mechanisms to ensure compliance with the guidelines, such as the possibility of bringing an action to court, and to use complaint procedures such as an ombudsman system.

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