The Tobacco Industry Response to the WHO FCTC

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The more it changes, the more it stays the same

- The tobacco industry will
  - Present itself as a partner or collaborator
- At the same time, it will continue to
  - Oppose
  - Weaken
  - Delay implementation
  - Interfere with enforcement

Of tobacco control policies
Implement Article 5.3 of the WHO FCTC

“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.” (FCTC)

- Whole of government approach to FCTC implementation
- Significant gaps in implementation
Let’s keep in mind

- Effective tobacco control is antithetical to the economic interests of the tobacco industry

- When tobacco control succeeds, the tobacco industry fails

- Entirely predictable that the tobacco industry would do what it can ensure that tobacco control policies fail

- Understanding the tobacco industry’s past helps understand its activities now
“our goal is to help shape regulatory environments that enable our businesses to achieve their objectives in all locations where we do business. Our overall approach to the issues is to fight aggressively with all available resources, against any attempt, from any quarter, to diminish our ability to manufacture our products efficiently, and market them effectively… In short, we are very clear about our objective - an unyielding and aggressive defence of our rights to make and sell our products and our consumers' rights to have a free marketplace so that they can choose and use those products.”

Steve Parrish, then Senior Vice President Worldwide Regulatory Affairs (1995) Source: http://legacy.library.ucsf.edu/tid/jww95a00
Parties’ commitment to the Article 5.3

- Article 5.3 Guidelines approved in 2008 by ALL Parties to the WHO FCTC
- 8 recommendations on how countries can ensure that the tobacco industry and their allies and surrogates are not exerting undue influence on tobacco control policy making.

• Note that often the influence is outside of tobacco control, and even the health, sphere
  – Revenue, Customs, Agriculture are examples of governmental sectors targeted by the tobacco industry
    ▪ Including as a target for its “social responsibility” initiatives
Examples of TI response to FCTC and Article 5.3

- Investing in ‘reduced harm’ tobacco products
- Use of litigation to oppose implementation of the FCTC
- “Addressing” illicit trade
A few models of implementation building on existing institutional and governance structures

- Existing transparency law
- Existing rules of engagement with private parties
- Existing code of conduct / code of ethics for civil service / government employees
- Bans / restrictions on CSR as part of Article 13
Guideline Recommendation 2: Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.

- When interactions are necessary:
  - Transparent
  - Minutes or notes of meeting discussions publicly available.
  - When legally protected trade secrets discussed: the portion could be redacted from meeting minutes, but public has the right to know that a meeting took place.

- Public hearings on proposed regulatory or legislative measures: acceptable way of the tobacco industry to interact with the government.

- All other interaction with the industry should be avoided.
Example:

- Several countries have rules of interaction
- Australia interpreted their own guidance applicable to Article 5.3
- Transparency in meetings
Guideline Recommendation 4: Avoid conflicts of interest for government officials and employees.

Many reasons for this recommendation, including:

- Third-parties that are engaged with the tobacco industry often act to advance its interests and a real or perceived conflict of interest may exist when such third parties are also performing work for governments.

- Real and perceived conflicts of interests between government officials need to be publicly disclosed and these officials should not participate in the development of tobacco control measures or policies that affect tobacco control. Officials with a fiduciary interest in the financial well-being of the industry should not participate in the development of tobacco control policies.
CÓDIGO DE ÉTICA DE LAS PERSONAS SERVIDORAS PÚBLICAS DEL GOBIERNO FEDERAL

¿Es correcto?
¿Me siento cómodo(a) con la decisión?
¿Es legal?
¿Es congruente con el Código?
¿Dañaría mi imagen y la de mi institución?
¿Correspondería a la confianza de la sociedad?
¿Pensarían algo positivo sobre mi actuar (familia, amigos(as) y compañeros(as)), si mi decisión fuera difundida en medios de comunicación?

Proceso de Juicio Ético

Preguntas guía para tomar una decisión o realizar una acción:

No
Sí

¿Estás seguro(a)?

Consultar el Código y acércate a tu representante en el Comité o a la Unidad.

PROCEDER

¡Compártelo tus aprendizajes y las recomendaciones de tu Comité de Ética!
Good News

- Increased awareness among Parties of the FCTC about Article 5.3 and tobacco industry interference

- More mechanisms for tobacco industry monitoring

- Tobacco Industry’s activities more visible
Going forward

- Integrate tobacco industry surveillance into national tobacco control plans
  - Strengthen institutional infrastructure

- Ensure that Article 5.3 is implemented across sectors: policy coherence

- Lessons from past need to guide actions of the future

- Protect tobacco control AND beyond, the SDGs