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Guidance on how to counteract the interference of tobacco industry

A document by
Work Package 4 Sustainability and Cooperation across Europe (Objective 4.2, Task 4.2a)
In collaboration with other JATC2 partners

JATC2 JOINT ACTION ON TOBACCO CONTROL

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Abstract

This guidance focuses on the recommendations for counterig Tobacco Industry interference in tobacco control activities and policies of the European MS, to further progress the implementation of Article 5.3 and its guidelines unanimously adopted by the Conference of the Parties of the WHO FCTC in 2008.

Among the main recommendations are the filling out of a Declaration of Interests (DoI) and the adoption of a specific Code of Conduct (CoC) in in tobacco-related activities for public officials, government staff, researchers. For this purpose the guidance provide templates of the DoI to be signed and the CoC to be personalized by the MS and made publicly available on the agencies and ministries websites.

Some examples of the main Tobacco Industry tactics for interfeering policies and research on tobacco and nicotine products is also reported to further raise awarness on this issue.

1. Introduction

This Guidance document is produced under the Joint Action on Tobacco Control 2 project (JATC-2). The JATC-2 is an European Union (EU) funded project that brings together 21 Member States in a consorted effort to promote public health through the exchange of good practices between Member States in order to improve implementation of the Tobacco Products Directive (TPD). JATC-2 brings together experts and unique national perspectives with the aim of developing comprehensive research on tobacco control policy measures and making that research available to Member States at all levels of government.

Work Package 4 (WP4) of JATC-2, with 10 partners (9 countries) focuses on activities that ensure sustainability and uptake of the JATC-2 actions both during and after the implementation of the JATC-2 objectives across EU member states (MS). This Guidance document is a product of WP4's Objective 4.2, prepared in collaboration with partners from other WPs. The aim of this objective is to promote best practices among the EU MS on the application and effective enforcement of the TPD and Tobacco Advertising Directive (TAD), and supporting sustainability of the tobacco control activities and cooperation among EU MS

Tobacco consumption is the single largest avoidable health risk, and responsible for nearly 700.000 premature deaths every year in the EU. Despite the progress made in recent years, the number of smokers in the EU is still high: 26% of the adult population and 29% of young Europeans aged 15-24 years smoke (European Commission, 2022). The international community is concerned about the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke. The tobacco industry (TI) continues to fight proven policies and programs that reduce tobacco smoking and to undermine tobacco control measures, influencing scientific research, politics, law, education and the media (Gannon, 2022).

The monitoring and control of use of conventional tobacco and emerging tobacco and nicotine products (e.g. electronic cigarettes, heated tobacco products, nicotine pouches, novel herbal products with tobacco and/or nicotine) in Europe will contribute to the reduction of demand for these products. In the EU, this can be achieved in synergy with an implementation of current relevant EU directives (i.e., TPD and TAD) and their comprehensive and successful update, as well as with an effective silencing of the TI interference, coherent with article 5.3 of the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) (WHO FCTC, 2013; Straarup et al., 2022).

The WHO FCTC requires Parties to adopt a comprehensive range of measures designed to reduce the impacts of tobacco on population health and economy. WHO FCTC recognizes that TI interference poses the greatest threat to tobacco control. It has been documented that the TI has used strategies to subvert, hinder and prevent tobacco control efforts (WHO, 2019). The guidelines

for implementation of Article 5.3 of the WHO FCTC on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the TI, unanimously adopted by the Conference of the Parties (COP) of the WHO FCTC in 2008 (decision FCTC/COP3(7)), is one of the most important cross-cutting provisions of the Convention providing implementation guidelines. It requires Parties to protect their tobacco control and public health policies from commercial and other vested interests of the TI (WHO FCTC, 2013; GGTC, 2022; WHO FCTC, 2021).

Article 5.3 requires parties to be transparent and accountable when dealing with the TI. The main actions to be undertaken are: rejecting partnerships, de-normalizing so-called Corporate Social Responsibility (CSR) activities, raising awareness on TI tactics, signing a Declaration of Interests (DoI), formulating, adopting and implementing a Code of Conduct (CoC) for public officials prescribing the standards with which they should comply in their dealings with the TI, and refusing any preferential treatment for the TI (GGTC, 2021a; SEATCA, 2015).

Referring to the efforts of the ministries of health or the national tobacco control councils/agencies (GGTC, 2021a), the **least reported actions recommended within Article 5.3 implementation in the Countries worldwide** are:

- *Require information from the tobacco industry to be transparent and accountable;*

- *Do not give preferential treatment to the tobacco industry.*

In contrast, the **most frequently reported areas of Article 5.3 implementation** are:

- *Efforts to limit interactions with the tobacco industry;*

- *Avoid conflicts of interests.*

With respect to TI interference, the Global Center for Good Governance in Tobacco Control (GGTC) in 2021 published a global survey "The Global Tobacco Industry Interference Index", on how governments are responding to TI interference and protecting their public health policies from commercial and vested interests as required under the WHO FCTC (GGTC, 2021b). This Survey has been updated and published in November 2023 (Assunta, 2023).

A similar survey "The European Tobacco Industry Interference Index" based on the data of the GGTC and focusing on the European context, has been published by the Smoke Free Partnership (SFP, 2021).

The survey analyzed how 16 countries in the WHO European Region, and the institutions of the European Union, are affected by TI interference, and how far they have progressed in the implementation of Article 5.3 and its Guidelines.

The following six indicators related to TI influence have been included:

1. Participation in policy development;

2. Corporate Social Responsibility;

3. Benefits to the TI;

4. Unnecessary interaction with TI;

5. Transparency;

6. Conflict of interest.

Overall, throughout the European region, TI has attempted to influence policy development with a varying degree of success. No country covered by this survey has fully implemented Article 5.3 of the WHO FCTC. No country in the region is immune from tobacco industry interference: preventive measures and transparency are lacking, although there is room for improvement (SFP, 2021).

The **2023 European Index** released on November 14, 2023, **involved 20 countries** of the WHO European Region (four more than the previous 2021 Index) and **one more indicator** wad added to the six already mentioned above: **7. Preventive measures** (i.e. the recommended measures to prevent TI interfering, including the disclosure of records of interactions between government officials and representatives of TI, and to prohibit TI contributions to public institutions). The 2023 Index confirmed the heterogeneity observed in terms of transparency regarding interactions with TI, success of the TI attempts to influence policy-making decisions, and opposing tobacco control measures among the EU countries, with some best practice examples from the Netherlands, France and UK (Olefir et al., 2023).

It is fundamental for the JATC2 to provide recommendations and tools to support EU countries in countering TI interference.

In terms of policy development in particular, the provision and implementation of comprehensive and effective legislation/regulation is fundamental to effective tobacco control. Several countries now apply a Regulatory Impact Analysis (RIA) approach in their decision making /law making processes in relation to tobacco control. Protecting such RIA processes and lawmaking from TI interference is therefore also critical and fundamental.

The more countries are informed about the TI tactics to influence policies, the better chance they have to effectively prevent them, and therefore achieve a smooth implementation of tobacco control measures, reducing tobacco consumption and preventing tobacco-related illness and death (Gannon, 2022).

Another important point to consider, highlighted by US Action on Smoking and Health (ASH USA), is the nexus between tobacco control and human rights (ASH USA, 2023a). The TI's cigarette production and marketing directly conflicts with human rights objectives: "All people have a fundamental right to breathe clean air and governments are obliged to protect everyone's health as a fundamental human right" (WHO, 2023). A human rights approach requires governments to protect their citizens by implementing tobacco control laws and strategies to end the tobacco epidemic (ASH USA, 2023b).

1.1 Human rights approach to ending tobacco use

To raise awareness and address the human rights issue, during the 17th World Conference on Tobacco or Health, Cape Town, South Africa, on 9 March 2018, participants agreed to 27 general principles relating to human rights and tobacco control (Cape Town Declaration, 2018).

This is the summary of the general principles of the Cape Town Declaration (the text is as reported in the Cape Town Declaration on Human Rights and a Tobacco-free World © Cape Town Declaration summary by ASH / Unfairtobacco):

- The production, marketing and sale of tobacco is incompatible with the human right to health and other rights;
- Governments have obligation to address the human rights implications of tobacco production, marketing, sale and consumption;
- The WHO FCTC is grounded in fundamental human rights and freedoms;
- The tobacco industry and industry-funded groups can never be a partner in tobacco policy;
- The tobacco industry should not benefit from trade and investment agreements.

The Declaration calls for:

- Governments to include tobacco policy in human rights reporting;
- Civil society to provide information on tobacco policy to human rights bodies;
- Individuals and organizations to bring legal cases to support efforts to limit production, advertising, and marketing of tobacco products as violations of the human right to health;
- The Special rapporteur on the right of everyone to the highest attainable standard of physical and mental health to include the right to a tobacco-free world as a component of the human right to health in his thematic and country reports;
- The Human Rights Council to affirm the right to a tobacco-free world;
- The exclusion of the tobacco industry from any benefits of trade and investment agreements;
- Scientists, research entities, foundations, and civil society organizations to reject or cease collaboration with the Philip Morris International-funded Foundation for a Smoke-Free World and similar public relations initiatives of the tobacco industry.

Previously, in September 2016, the Danish Institute for Human Rights (DIHR) began working to carry out a human rights assessment in the tobacco company Philip Morris International (PMI) (Danish Institute for Human Rights, 2017).

The work was completed and they decided to end their engagement with PMI.

In May 2017 DIHR reported that:

"There can be no doubt that the production and marketing of tobacco is irreconcilable with human right to health";

"For the tobacco industry, the UN Guiding Principles on Business and Human Rights therefore require the cessation of the production and marketing of tobacco";

"We hope our input will enable PMI to better understand how the corporate responsibility to respect human rights applies to their business and take the necessary action".

1.2 Sustainability

The WP4 objective 4.2 is to facilitate the exchange of knowledge and best practices on the application and effective enforcement of the TPD and TAD. Part of this objective is the task 4.2a, which includes the preparation and development of guidance documents, how-to-guides and other documentation that may support EU MS in the implementation and the continuation of JATC-2 actions after the end of the project.

This guidance aims at supporting EU MS in the actions to counteract TI interference in tobacco control policies and activities. Recommendations, templates of the Declaration of Interest (DoI) and Code of Conduct (CoC), and examples about TI tactics are herein provided in order to support countries in the fight against TI interference and for a stronger implementation of the Article 5.3 of the WHO FCTC in the EU.

Indeed, to ensure sustainability of the tobacco control activities and policies, it is important to counteract the TI interference as outlined in Article 5.3 of the FCTC and to ban TI's Corporate Social Responsibility (CSR) initiatives.

If all the EU countries implemented the recommendations of this Guidance, signed a DoI, and adopted the CoC, we could avoid waste of financial and human resources to fight against tobacco industry's aggressive interference at many levels; we could envisage a tobacco and related products-free society with high economic saves, a better optimization of the available resources and improved health conditions of the populations. This would build capacity and facilitate national actions to progress towards the Tobacco-Free Generation goal of the EU Cancer Plan.

2. Scope of this guidance

This guidance document outlines the main recommendations and actions that European MS (public officials, researchers/scientists, stakeholders, government employees) should follow and undertake, in order to prevent TI's interference and promoting accountability and transparency.

The first part of the document is related to recommendations and actions to follow, for all those involved in tobacco control activities and committed to counteract and avoid TI interference.

The second part of this document provides templates of the **DoI** and of the **CoC** that should be used to support implementation of recommendations.

The DoI template is mostly taken from the one available on the WHO website (WHO, 2014), with some modifications, also incorporating a part from the DoI included in the Toolkit *Preventing Tobacco Industry Interference: A Toolkit for Advocates and Policymakers, Based on the Guidelines for the Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control* of the Southeast Asia Tobacco Control Alliance (SEATCA), Health Justice (SEATCA, 2015). This toolkit is an important resource that should be read in conjunction with this guidance.

The template of the CoC was kindly provided by Mary Assunta (Head of Global Research and Advocacy at Global Center for Good Governance in Tobacco Control), who participated in the 1st WP4 webinar organized by Health Service Executive (HSE), Ireland, with a presentation about *Addressing Tobacco Industry Interference – A Global Index on Article 5.3 and learnings from Regional tobacco in SEAR (South-East Asia Region)*.

Another important document to be read in conjunction with this guide, is the *Guidance for Public Officials on Interacting with the Tobacco Industry* by the Australian Government, Department of Health. This document contains the legal framework placed on public agencies and officials under Article 5.3 of the WHO FCTC, as a part of a comprehensive strategy of tobacco control (Australian Government, 2019).

Currently, regulatory tobacco control landscape include emerging tobacco and nicotine products, such as electronic cigarettes, heated tobacco products, nicotine pouches, novel herbal products with tobacco and/or nicotine, due to the increasing integration between their manufacturers and the tobacco industry (Australian Government, 2019). Therefore, it is highly recommended that the MS include new and emerging tobacco and nicotine products in the implementation of Article 5.3 (WHO, 2023).

3. Recommendations

In the global tobacco treaty, WHO FCTC, includes a process designed to protect public health policies from the interests of the TI, requiring that **all public or semi-public institutions "should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products"** (WHO FCTC, 2013).

As a project committed to strengthening tobacco control, it is of utmost importance that JATC-2 activities and more in general tobacco control policies of the countries, are protected from commercial and other interests of the TI, by involving agencies, public health institutions and ministries (e.g. Ministries of Health, Ministries of Economy and Finance, Ministries of Agriculture) in implementing the recommendations proposed in this guidance.

Participants in JATC-2 as well as in other tobacco control projects either at international or national level, should be committed to sign the DoI and update it regularly (for example, it is mandatory to report any new interests have arisen in the meantime). Moreover, it is important that each EU MS adopt a CoC, personalize it and publishes it on governmental website and on the websites of key regulatory authorities and public health institutions.

The following recommendations are a synthesis of the more detailed ones reported in *Toolkit for Advocates and Policymakers, Based on the Guidelines for the Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control* (SEATCA, 2015) and in the Guidance for Public Officials on Interacting with the Tobacco Industry by the Australian Government (Australian Government, 2019), with the exception of the number 12, which is originally created by the authors of this guidance.

It is strongly recommended that the governments adopt the following measures:

1. Raise public awareness about tobacco control, TI interference and tactics and their negative implication to public health.
2. Adopt a CoC based on Article 5.3 FCTC to set common standards for EU officials and public officials/government employees, researchers/scientists of EU countries.
3. With respect to the public officials/government and agencies employees, all interactions with the TI, including front groups that are funded by tobacco and related industries, must be prohibited unless strictly necessary for regulatory purposes (e.g. the development of law or policy that directly regulates the TI and tobacco products). Meeting must be only with stakeholders registered in the EU Transparency Register.
4. Public Agencies and officials must also ensure that staff members are aware of Article 5.3 and monitor any interactions with TI that are out of the ordinary. Transparency of all meetings and interactions with the TI requires that:
    - Detailed information (e.g. the date of the meeting, the organizations represented and a broad description of the issue discussed, related records, minutes, telephone notes and mails, all the communications from tobacco producers and related organizations) must be disclosed on the relevant agency website. For instance, the Danish Health Agency to ensure transparency in the Danish Health Authority's interaction with the TI, publishes on their website all the communications, inquiries and minutes from tobacco producers and their interest organizations (Danish Health Authority, 2023).
    - A minimum of two officials must be present at all times in any meeting or interaction.
    - For email interactions, at least one other official to all communications must be in copy.
    - All meetings or interactions must be recorded and the information about the meeting should include:

- the date, location, nature and method of the interaction or contact;

- the names of the parties and individuals involved;

- the matters discussed or considered and any decisions taken;

- any follow up activity planned or anticipate;

- detailed minutes of the meeting.

5. Not allowing any official or employee of government or of any semi/quasi-governmental body to accept payments, gifts, or services, monetary or in kind, from the TI.
6. Not allowing such official to accept TI contributions on behalf of government or private entities, and not endorsing, supporting, forming partnerships with, or participating in activities of the TI including activities described as 'socially responsible'.
7. Not allowing TI to work with governments (e.g. to address the illicit trade in tobacco or supporting environmental projects); to promote products purportedly claiming to be less harmful than conventional tobacco products; to provide scholarships or organize or endorse youth or public education initiatives.
8. Preferential tax exemptions, grant incentives, privileges or benefits must not be provided to TI.
9. Activities described as "socially responsible" by the TI, including financial contributions to non-government organizations, must be denormalized and prohibited.

10. Declaring any conflict of interest with respect of tobacco/nicotine industry before starting a tobacco control relevant project/program or work on tobacco control (see the Paragraph 4.1 related to the DoI for further specifics), and regularly update it in case new interests or changes raise up. No organization or individual with a commercial or vested interest in the TI should be involved in developing or implementing public health and related policies/programs on tobacco control. Any current, previous or proposed connection, involvement or relationship with the TI should be disclosed.
11. Information that is offered by the TI outside of disclosures required by law, should be treated with caution and carefully scrutinized to minimize opportunities for the TI to manipulate information, cause confusion among the public and government, and undermine public health policies in relation to tobacco control. Creating the perception of cooperation between government and the TI can bolster the TI's reputation and generate public acceptance for tobacco companies.
12. Requiring transparency of information from TI and related organizations (such as the Foundation for Smoke Free World - FSFW, see chapter 5), and particularly: to provide their annual budget, and to require various organizations receiving money from the FSFW to provide their budget.

The above recommendations are in line with those of the SFP report on the 2021 and 2023 European TI interference index (SFP, 2021; Olefir et al., 2023), which recommend that, at European level, Institutions and agencies should adopt a uniform, mandatory set of specific rules regarding interactions with the TI, in line with Article 5.3 and its Guidelines and with the Ombudsman's Decisions* (SFP, 2016). Ombudsman's decision has found that "by refusing to implement proactive disclosure of meetings with the tobacco industry help by officials in all Commission departments in line with the practice in place at DG SANTE, the European Commission is guilty of maladministration". To the date of the report on interference index (November 2021), no such proactive transparency policy specifically regarding meetings with the TI has been implemented at the Commission, nor at the other EU Institutions (SFP, 2021).

The WHO recommends an effective counteracting TI interference by a "whole-of-government approach which ensures all sectors, including, for example, ministries of trade or commerce, are engaged in the enforcement of tobacco control policies and upholding Article 5.3".

The following ten government actions are reported by WHO for preventing political lobbying and interference of TI (WHO, 2023):

1. Requiring disclosure of, and clearly communicating, funding sources for research institutions, academics, and scientific studies to prevent unseen biases in science on which policy may be based, as well as to clarify the motivations of nongovernmental organizations, business and trade associations, consumer groups, think tanks, professional associations and others seeking involvement or input in tobacco control policies.
2. Rejecting partnerships and non-binding or non-enforceable agreements with the tobacco industry and those working in its interests, including financial support, incentives and endorsement of tobacco industry activities related to tobacco control.
3. Raising awareness about the known addictive and harmful properties of tobacco and nicotine-containing products, and about tobacco industry interference with tobacco control policies.
4. Denormalizing and, to the extent possible, regulating and banning publicity around activities described as "socially responsible" by the tobacco industry.
5. Prohibiting the dissemination of misleading information relevant to tobacco control policies.
6. Requiring that information from the tobacco industry on marketing, lobbying and philanthropic activities is disclosed and that the information provided by them be transparent and accurate, with regular, truthful, complete and precise information on tobacco industry activities. All government interactions with the industry should be recorded and made available to the public.
7. Putting in place and enforcing effective conflict of interest policies for policy-makers and

officials engaged in developing, implementing and enforcing tobacco control policies.
8. No government privileges or influence should be afforded to any tobacco and nicotine companies and state-owned tobacco enterprises should be treated the same as other tobacco companies.
9. Ensuring that health and non-health agencies take consistent action, adhering to Article 5.3 and applying the Guidelines for implementation.
10. Blocking interaction between government and front groups that are funded by tobacco and related industries "purporting to work for a smoke-free world" (speech by Dr Tedros Ghebreyesus).

* The Ombudsman investigates different types of poor administration, for example: unfair conduct, discrimination, abuse of power, lack of information or refusal to provide it, unnecessary delays, incorrect procedures by EU institutions, bodies, offices & agencies.

4. Templates

In this section two Templates are proposed: The Declaration of Interest (DoI) (section 4.1) and the Code of Conduct (CoC) (section 4.2). Both of these templates represent two complementary actions in order to counteract TI interference.

With respect to the DoI, one of the ways to jumpstart monitoring TI interference is to have a policy that mandates Agencies to require a DoI to be filled out as a standard operating procedure in all meetings, events, before starting a project on tobacco control (e.g. by coordinators or leading investigators as well as by all project participants), or as a requirement for all employees in Governments and Ministries.

The following template of DoI is the one proposed by WHO, giving several examples, so that people will consider all the relevant aspects. Moreover, the DoI should be regularly updated (e. g. every six months) in case new interests or changes arise.

4.1 Declaration of Interest

The template of DoI herein provided is adapted and modified from the WHO DoI (WHO, 2014) and from the DoI included in the Toolkit of the Southeast Asia Tobacco Control Alliance (SEATCA), Health Justice (SEATCA, 2015).

To ensure the highest integrity and public confidence in its activities, any expert, scientist, public official or government employee, is required since the beginning of their working activity to disclose any circumstances that could give rise to a potential conflict of interest related to tobacco and/or nicotine products. This disclosure should be updated every 6 months or even less, in case they will start a new activity or project related to tobacco and/or nicotine products.

A **potential conflict of interest (CoI)** is any interest that may affect, or may reasonably be perceived to affect, the experts, scientists, public or government officials objectivity and independence.

On this DoI form any expert, scientist, public or government officials should disclose financial, professional or other interest relevant to the subject of the work or meeting in which they have been asked to participate in or contribute towards, and any interest that could be affected by the outcome of the meeting or work. They should also declare relevant interests of their immediate family members (i.e. spouse or partner with whom they have a similar close personal relationship, and their children) and, if they are aware of it, relevant interests of other parties with whom they have substantial common interests and which may be perceived as unduly influencing their judgement (e.g. employer, close professional associates, administrative unit or department).

Answering ”Yes” to a question on this form does not automatically disqualify the person or limit his/her participation in a specific activity. The answers will be reviewed by an independent scientific or technical committee/supervisory authority to determine whether you have a CoI relevant to the subject at hand. One of the outcomes listed in the next paragraph can occur depending on the circumstances (e.g., nature and magnitude of the interest, timeframe and duration of the interest).

The committee/supervisory authority may conclude that no potential conflict exists or that the interest is irrelevant or insignificant. If, however, a declared interest is determined to be potentially or clearly significant, one or more of the following three measures for managing the CoI may be applied. The committee/supervisory authority allows full participation, with public disclosure of the interest; (ii) mandates partial exclusion (i.e., the person will be excluded from that portion of the meeting or work related to the declared interest and from the corresponding decision making process); or (iii) mandates total exclusion (i.e., the person will not be able to participate in any part of the meeting or work).

All potentially significant interests will be disclosed to the other participants at the start of the activity, and at least every six months participants will be asked if there have been any changes. As regards to scientists or researchers, public or government officials they must communicate if any changes in the interests have been occurred, during their regular working activity.

A summary of all declarations and actions taken to manage any declared interests will be published in resulting reports and work products. Completing this DoI form means that the person agrees to these conditions.

If the person is unable or unwilling to disclose the details of an interest that may pose a real or perceived conflict, he/she must disclose that a conflict of interest may exist and the Committee/Supervisory authority may decide that he/she be totally excluded from the meeting or work concerned, after consulting with the person.

Declaration of Interest

Name:	
Institution:	
Email:	

Date and title of meeting or work, including description of subject matter to be considered (if a number of substances or processes are to be evaluated, a list should be attached by the organizer of the activity):

Please answer each of the questions below

First, you need to answer to a general question, then you can respond to all the subsequent questions that are more specific and give the possibility to better specify the eventual connection with tobacco and/or nicotine industry.

If the answer to any of the questions is “yes”, briefly describe the circumstances on the last page of the form.

The term “you” refers to yourself and your immediate family members (i.e., spouse or partner with whom you have a similar close personal relationship, and your children). “Commercial entity” includes any commercial business, an industry association, research institution or other enterprise whose funding is significantly derived from commercial sources with an interest related to the subject of the meeting or work. “Organization” includes a governmental, international or non-profit organization. “Meeting” includes a series or cycle of meetings.

TOBACCO AND NICOTINE PRODUCTS (answer without regard to relevance to the subject of the meeting or work)

Consistent with the principle that there is an irreconcilable conflict of interest between the tobacco industry and its representatives on the one hand, and public health on the other hand, within the past 4 years, have you had employment or received research support or other funding, contribution or compensation, directly or indirectly, financial or otherwise, from any tobacco and/or nicotine products manufacturer, wholesale distributor, importer of tobacco or nicotine products, tobacco/ nicotine products retailers, or any parent, affiliate, branch, or subsidiary of a tobacco and/or nicotine product manufacturer, wholesale distributor, importer or retailer, front group, or any other individual or organization, such as an interest group, advocacy organization, lawyer, law firm, scientist, lobbyist, advertising agency, business, or foundation, that represents or that works to further the interests of the tobacco and nicotine industry or had any other professional relationship with, an entity directly involved in the production, manufacture, distribution or sale of tobacco or nicotine products or representing the interests of any such entity?

☐ Yes ☐ No

Please specify your type of direct or indirect connection with tobacco or nicotine industry sector, responding to the following questions, where appropriate.

1. EMPLOYMENT AND CONSULTING

Within the past 4 years, have you received remuneration from a commercial entity or other organization with an interest related to the subject of the meeting or work?

1a Employment ☐ Yes ☐ No

1b Consulting, including service as a technical or other advisor ☐ Yes ☐ No

2. RESEARCH SUPPORT

Within the past 4 years, have you or has your research unit received support from a commercial entity or other organization with an interest related to the subject of the meeting or work?

2a Research support, including grants, collaborations, sponsorships, and other funding

☐ Yes ☐ No

2b Non-monetary support (include equipment, facilities, research assistants, paid travel to meetings, etc.), Support (including honoraria) for being on a speakers bureau, giving speeches or training for a commercial entity or other organization with an interest related to the subject of the meeting or work?

☐ Yes ☐ No

3. INVESTMENT INTERESTS

Do you have current investments in a commercial entity with an interest related to the subject of the meeting or work? Please also include indirect investments such as a trust or holding company. You may exclude mutual funds, pension funds or similar investments that are broadly diversified and on which you exercise no control.

3a Stocks, bonds, stock options, other securities (e.g., short sales) ☐ Yes ☐ No

3b Commercial business interests (e.g., proprietorships, partnerships, joint ventures, board memberships, controlling interest in a company) ☐ Yes ☐ No

4. INTELLECTUAL PROPERTY

Do you have any intellectual property rights that might be enhanced or diminished by the outcome of the meeting or work?

4a Patents, trademarks, or copyrights (including pending applications) ☐ Yes ☐ No

4b Proprietary know-how in a substance, technology or process ☐ Yes ☐ No

5. PUBLIC STATEMENTS AND POSITIONS (during the past 3 years)

5a As part of a regulatory, legislative or judicial process, have you provided an expert opinion or testimony, related to the subject of the meeting or work, for a commercial entity or other organization? ☐ Yes ☐ No

5b Have you held an office or other position, paid or unpaid, where you represented interests or defended a position related to the subject of the meeting or work? ☐ Yes ☐ No

6. ADDITIONAL INFORMATION

6a If not already disclosed above, have you worked for the competitor of a product that is the subject of the meeting or work, or will your participation in the meeting or work enable you to obtain access to a competitor's confidential proprietary information, or create for you a personal, professional, financial or business competitive advantage?

☐ Yes ☐ No

6b To your knowledge, would the outcome of the meeting or work benefit or adversely affect interests of others with whom you have substantial common personal, professional, financial or business interests (such as your adult children or siblings, close professional colleagues, administrative unit or department)?

☐ Yes ☐ No

6c Has any person or entity paid or contributed towards your travel costs in connection with this meeting or work? ☐ Yes ☐ No

6d Have you received any payments (other than for travel costs) or honoraria for speaking publicly on the subject of this meeting or work?

☐ Yes ☐ No

6e Is there any other aspect of your background or present circumstances not addressed above that might be perceived as affecting your objectivity or independence?

☐ Yes ☐ No

EXPLANATION OF "YES" RESPONSES: If the answer to any of the above questions is "yes", check above and briefly describe the circumstances on this page. If you do not describe the nature of an interest or if you do not provide the amount or value involved where relevant, the conflict will be assumed to be significant.

Nos. 1 - 4: **Type of interest** (e.g., identity of tobacco-related commercial entity, nature of interest/s or relationship, etc.), question number and category (e.g., Intellectual Property 4a Copyrights) and basic descriptive details	**Name of company, organization, or institution**	**Belongs to you, a family member, employer, research unit or other?**	**Amount of income or value of interest (if not disclosed, is assumed to be significant)**	**Current interest (or year ceased)**
Nos. 5-6: Describe the subject, specific circumstances, parties involved, time frame and other relevant details				
In case of any past interests related to the tobacco industry, please list the details of such interests (name of tobacco company or of person or entity representing the tobacco industry, date of involvement, details of involvement)				

CONSENT TO DISCLOSURE. By completing and signing this form, you consent to the disclosure of any relevant conflicts to other meeting participants and in the resulting report or work product.

DECLARATION. I hereby declare on my honour that the disclosed information is true and complete to the best of my knowledge.

Should there be any change to the above information, I will promptly notify the responsible staff of the committee/agency supervisory authority and complete a new declaration of interests form that describes the changes. This includes any change that occurs before or during the meeting or work itself and through the period up to the publication of the final results or completion of the activity concerned.

Date:

Signature

4.2 Code of Conduct

The following template, containing all the steps for an adequate application of CoC, has been provided to WP4 by the Global Center for Good Governance in Tobacco Control (GGTC)[1]. All MS committed to counteract the TI's interference, can adopt it and personalize it.

Each country should consider a government body/agency in charge of the implementation of the CoC and should make their CoC public on their Websites, in order to promote transparency.

At international level, Australia adopted a CoC for public officials (Australian Government, 2019).

Most EU MS do not have a CoC in tobacco control. Nonetheless, as a best practice example, a few EU MS have adopted some preventive measure to avoid TI interference in tobacco control (Olefir et al., 2023):

- The Netherlands has a protocol of conduct for officials in engaging with the TI, a code of integrity that directly references Article 5.3, and a complete disclosure of meetings between officials and the TI. Besides having an official guidebook on Art.5.3 compliance, official communications in the Netherlands regularly reference Art. 5.3;

- In France TI has to register its lobbying activities in a special registry that is publicly accessible;

- In the United Kingdom and Denmark, there are some policies but they are followed only by the health department.

Most of the CoC provisions provided by Guidelines implementing Article 5.3,[2] such as receipt of gifts and public disclosure, are already covered by existing laws and rules. However, these proposed rules specifically mentioned the TI. The definition of the TI also is very broadly worded to comply with the Guidelines implementing Article 5.3. It aims to include individuals, organizations or entities working to promote the interest of the TI.

This template of CoC also has provisions on Divestment and Whistleblower Protection.

The challenge is to have in place programs to monitor and report the government employees/officials dealings and relationships with the tobacco industry. These programs will help us determine how well we are complying with Article 5.3.

Adherence to the CoC might be indicative of how comprehensive the need is to intervene with an effective, proportionate, dissuasive administrative fine or other corrective measure from the supervisory authority.

1 Obtained from Toolkit for policy makers and advocates: Preventing tobacco industry interference. A publication by South East Asia Tobacco Control Alliance (SEATCA) and Health Justice, Inc. 2010; pages 63-68.

2 Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control https://www.who.int/fctc/guidelines/article_5_3.pdf

I. Rationale

Tobacco is the single most preventable cause of death in the world today. The spread of the tobacco epidemic is a global problem with serious consequences for public health and calls for the widest possible international cooperation and participation of all countries in an effective, appropriate and comprehensive international response.

The WHO FCTC, the world's first global public health treaty requires the State Parties to adopt a comprehensive range of measures designed to reduce the devastating health and economic impacts of tobacco.

As Party to this treaty, the [country] is under a positive legal duty to implement the measures stated therein.

The WHO FCTC recognizes that tobacco interference poses the single greatest threat to tobacco control. It has been documented that the tobacco industry has used strategies to subvert, hinder and prevent tobacco control efforts. Article 5.3 of the treaty obligates the Parties to protect public health policies with respect to tobacco control from the commercial and other vested interest of the tobacco industry.

II. Objectives

A. To establish a set of rules to guide officials and employees of the agency in dealing with the tobacco industry; and

B. To promote accountability and transparency in the government.

III. Definition of Terms

A. Conflict of interest - arises from a situation in which public officials have private interest which may influence, or appear to influence, the impartial and objective performance of their official duties. Conflict of interest is created when an official or employee has interest in the tobacco industry.

B. Divestment - the transfer of title or disposal of interest in property by voluntarily, completely and actually depriving or dispossessing oneself of his right or title to it in favour of a person or persons other than his spouse and relatives within the fourth degree of consanguinity or affinity.

C. Gift - a thing or a right to dispose of gratuitously, or any act or liberality, in favour of another who accepts it, and shall include a simulated sale or an ostensibly onerous disposition thereof. It shall not include an unsolicited gift of nominal or insignificant value not given in anticipation of, or in exchange for, a favor from a public official or employee.

D. Tobacco Industry - organizations, entities, associations, and individuals that work for or in behalf or the tobacco industry, such as, but not limited to, tobacco manufacturers, wholesale distributors, importers of tobacco products, tobacco retailers, lawyers, scientists, lobbyists, front groups and any other individual or organization that work to further the interests of the tobacco industry (including pharmaceutical or medical devices industry owned by tobacco companies: this is a growing problem as they are investing at this sector in their attempt to sell harm reduction products).

E. Whistleblower - any person believing that an employee or group of employees and/or officials of the agency is or has engaged in improper conduct that constitutes violation of these rules makes a disclosure, in good faith, through the filing of a complaint against the respondents.

IV. Specific Guidelines

A. Interactions with the tobacco industry must be transparent and limited to instances when strictly necessary for its effective regulation.

"Officials, employees and representatives of the relevant ministries/institutions/agencies/organizations shall interact with the tobacco industry only when strictly necessary for its effective regulation. They shall exercise transparency in all interaction with the tobacco industry."

Proposed sanction under Revised Uniform Rules on Administrative Cases in the Civil Service

Insubordination [cite relevant section]

OR Simple Misconduct [cite relevant section]

B. No preferential treatment to the tobacco industry

"Officials and employees shall serve the public interest and are prohibited from providing incentives, privileges, benefits or exemptions to the tobacco industry."

Proposed sanction under the Revised Uniform Rules on Administrative Cases in the Civil Service

Conduct prejudicial to the best interest of the service [cite relevant section]

OR Unfair discrimination in rendering public service due to party affiliation or preference. [cite relevant section]

C. Prohibition against receipt of gifts, donations and sponsorship

"Officials and employees shall not take advantage of their position for their own private interests. They shall not demand or receive any contributions from the tobacco industry for themselves, their families, relatives, friends, or any other persons or organizations. Contributions shall include, but are not limited to, payments, gifts and services, monetary or in-kind, research funding, financial aid, policy drafts and legal advice."

Proposed sanction under the Revised Uniform Rules on Administrative Cases in the Civil Service

Soliciting or accepting directly or indirectly, any gift, gratuity, favour, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature. [cite relevant section]

OR Receiving payments, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favour or better treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws. [cite relevant section]

D. Divestment of interest in the tobacco industry

Officials and employees shall declare and divest themselves of their direct or indirect interest in the tobacco industry.

For the purpose of this rule, interest in the tobacco industry means personal, financial or other interest, including, but not limited to:

1. having an existing ownership or investment

2. receiving any contribution from the tobacco industry

3. being a member of the Board of Directors, an officer of the corporation or a partner in a partnership.

Proposed sanction under the Revised Uniform Rules on Administrative Cases in the Civil Service

Failure to resign from his position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest himself of his shareholdings or interest in private business enterprise within sixty (60) days from assumption of public office when conflict of interest arises; Provided, however, that for those who are already in the service and conflict of interest arises, the official or employee must either resign or divest himself of said interest within the periods hereinabove; provided, reckoned from the date when the conflict of interest had arisen. [cite relevant section]

V. Reporting of Violations

A. Complaint

1. Formal Requirements. A **complaint against a civil service official or employee** shall not be given due course unless it is in writing, subscribed and sworn to by the complainant. However, in cases initiated by the proper disciplining authority, the complaint need not to be under oath. In some local cases complaint can be verbally accepted by a specific officer of the supervisory committee.

Anonymous complaints may be entertained provided there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence.

The complaint should be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him and to enable him to intelligently prepare his defence or answer.

The complaint shall contain the following:

(a) full name and address of the complainant;
(b) full name and address of the person complained of as well as his position and office of employment;
(c) a narration of the relevant and material facts which shows the acts or
(d) omissions allegedly committed by the civil servant; and
(e) If available, the complainant may also submit certified true copies of documentary evidence and affidavits of his witnesses.

2. Venue. The complaint shall be filed in the [X Department]. Upon receipt of the complaint, it shall be acted upon within three (3) working days. If the [X Department] finds that the complaint is sufficient in form and substance, it shall require the person complained of to submit a Counter-Affidavit/ Comment under oath within three (3) days from receipt.

B. Investigation

1. Conference. The parties may be summoned to a conference where the investigator may propound clarificatory questions.

2. Fact-Finding Investigation. A fact-finding investigation may be conducted further or prior to the preliminary investigation for the purpose of ascertaining the truth.

3. Preliminary Investigation.

(a) The preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the disciplining authority and shall be terminated within thirty (30) days thereafter.
(b) Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit the Investigation Report and the complete records of the case to the disciplining authority.
(c) If a prima facie case is established during the investigation, the disciplining authority shall issue a formal charge and a formal investigation shall follow.
(d) In the absence of a prima facie case, the complaint shall be dismissed.

C. Formal Investigation and Hearing of the Case

1. Notice. The respondent shall be provided a copy of the formal charge including all evidences supporting the formal charge. He/ She shall be informed of his right to formal investigation and counsel of his/her choice and shall be required to submit a sworn answer within five (5) days from receipt of formal charge.

2. Failure or Refusal to Answer. If the respondent fails or refuses to file his answer to the formal charge within five (5) days from receipt thereof, he shall be considered to have waived his right thereto and formal investigation may commence.

3. Pre-Hearing Conference. A pre-hearing conference may be conducted for the parties to appear, consider and agree on any of the following:

a. Stipulation of facts;
b. Simplification of issues;
c. Identification and marking of evidence of the parties;
d. Waiver of objections to admissibility of evidence;
e. Limiting the number of witnesses, and their names;
f. Dates of subsequent hearings; and
g. Such other matters as may aid in the prompt and just resolution of the case.

The parties may submit their position papers and memoranda and submit the case for resolution without need of further hearings.

4. Formal Investigation. Although the respondent does not request a formal investigation, one shall nevertheless be conducted by the disciplining authority where from the allegations of the complaint and the answer of the respondent, including the supporting documents of both parties, the merits of the case cannot be decided judiciously without conducting such investigation. The investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's answer. Said investigation shall be finished within thirty (30) days from the issuance of the formal charge or the receipt of the answer unless the period is extended by the disciplining authority in meritorious cases.

Continuous hearings shall be conducted until the case is terminated. Where no pre-hearing conference is conducted, the parties, their counsel and witnesses, if any, shall be given a notice of at least five (5) days before the first scheduled hearing specifying the time, date and place of the said

hearing and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice.

If the respondent fails or refuses to appear during the scheduled hearings despite due notice, the investigation shall proceed ex parte and the respondent is deemed to have waived his right to be present and to submit evidence in his favour during those hearings.

Unless directed otherwise by the hearing officer, the order of the hearing may be as follows:

The prosecution shall present its evidence subject to the pre-hearing agreement;

a. Cross-examination by the party;
b. There may be redirect and re-cross examination;
c. The respondent shall then offer evidence in support of his defense following the same order;
d. Rebuttal and sur-rebuttal, if any.

When the presentation of evidence has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. After which, both parties may be given time to submit their respective memorandum which in no case shall be beyond five (5) days after the termination of the investigation.

Failure to submit the same within the given period shall be considered a waiver thereof.

5. Decision. Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the Hearing Officer with the disciplining authority. The complete records of the case shall be attached to the Report of Investigation.

The disciplining authority shall render his decision on the case within thirty (30) days from receipt of the Report of Investigation.

6. Penalty. A decision rendered by heads of agencies whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days salary the same shall be final and executory after the lapse of the regulative period for filing a motion for reconsideration or an appeal and no such pleading has been filed.

D. Remedies

1. Motion for Reconsideration. The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof.

2. Appeal. Decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty days salary, may be appealed to the Commission Proper within a period of fifteen (15) days from receipt thereof.

In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and finally to the Commission Proper. Pending appeal, the same shall be executory except where the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

VI. Whistleblower Protection

A. Protected Disclosure

1. Reporting of a violation of any provision of these rules shall be considered protected disclosure and the whistleblower shall be accorded protection from intimidation and reprisals.

2. The protection provided by this rule does not require that the whistleblower's report/complaint lead to final determination by the agency that a violation has occurred.

3. To be considered a whistleblower and accorded with the rights and privileges under this act, the complainant:

a. Shall execute a statement outlining, in sufficient detail, the participation of the respondent/s and the act committed constituting violation of the rules. The disclosure must be made voluntarily, in writing and under oath.
b. In the event that he or she has taken part in the violation, he/she must not be the most guilty of all the respondents concerned or in instances where he or she is, such disclosure is compelling against one in higher authority.
c. The information provided leads to successful conduct of investigation and gathering of evidence sufficient to sustain a finding of probable cause for filing of either a formal charge in the agency or for filing of criminal case before the court of competent jurisdiction.
d. Has not been previously convicted by final decision of a criminal or administrative offense involving moral turpitude.

B. Requisites of Protected Disclosure

1. A disclosure must meet the following requirements to qualify as protected disclosure:

a. The disclosure is not yet the subject of an existing or filed complaint or inquiry, or it introduces new evidence of a case earlier dismissed/archived, or it strengthens the case or the conduct of an investigation or inquiry.
b. The disclosure is made before persons, offices, or agencies designated or mandated to receive the complaint (ex. officials of the agency, Heads of other public offices [name relevant regulator]
c. The whistleblower assists or participates in the proceedings commenced to enforce the provisions of the rules in connection with the subject matter of his disclosure.
d. The information provided can be supported by other material evidence.

2. The head of the agency, upon the recommendation of X Committee (committee or supervisory authority established to implement the rules) and after proper evaluation shall certify that the person, having fulfilled all the requirements, is qualified to be a whistleblower and entitled to whatever rights and privileges attributed thereto.

C. Protection Accorded to Whistleblowers

1. Retaliatory acts against the whistleblower, such as but not limited to discriminatory actions, reprimand, punitive transfer, and undue poor performance reviews, are prohibited. The proper administrative action shall be taken against the person/s committing such retaliatory act/s.

Retaliation shall mean any direct or indirect detrimental action recommended, threatened, or taken because the protected disclosure.

2. He/she shall not be subject to any liability, whether administrative, civil, criminal or any other proceedings, for making a protected disclosure and no action, claim or demand may be taken or made of, or against the whistleblower for making the disclosure.

3. He/she shall have as defence in any other inquiry or proceeding, the absolute privilege with respect to the subject matter of the disclosure or information given to a qualified person, office or agency.

4. If he/she has made a protected disclosure and a provision of law, regulation, issuance, practice or other convention, imposes a duty on him/her to maintain confidentiality with respect to any information disclosed, he/she is considered not to have committed a breach thereof.

D. Rights and Benefits of a Protected Whistleblower

1. He/she shall not be liable to disciplinary action for making such protected disclosure. Refusal to follow orders of his/her immediate superior/supervisor outside of his/her regular functions that would cause him/her to violate any provision of these rules shall likewise be protected from reprisals and retaliatory action in the workplace.

2. The whistleblower and his/her immediate family shall be given free medical treatment, hospitalization and medicines for any harm, injury and illness incurred or suffered by reason of the protected disclosure.

3. The agency shall assist the whistleblower in relocation and/or in obtaining means of livelihood.

4. For the whistleblower who is also an employee of the agency, possible reassignment to other place of work with his/her consent.

5. The whistleblower shall be accorded interim protection as necessary during the course of review or investigation regarding the violation of these rules.

6. The whistleblower shall be informed of the outcome of the investigation including whether disciplinary measures or sanctions have been imposed.

E. Malicious allegations.

In case the appropriate unit determines, after investigation, that the complaint made by the whistleblower has baseless, untruthful, fabricated, malicious or vexatious allegations, the whistleblower shall lose all benefits or protection under the rules, without prejudice to the filing of administrative or criminal case against him/her.

VII. Funding.

All costs incident to the implementation of this Administrative Order shall be sourced from the budget of [X Department].

VIII. Review of the Rules

The rules shall be subjected to periodical review to assess the necessity for amendments taking into consideration new information or strategies in dealing with the tobacco industry.

IX. Repealing Clause

Other related issuances inconsistent with the provisions of this _____ are hereby revised, modified or rescinded accordingly. All other provisions of existing issuances which are not affected by this order shall remain valid and in effect.

X. Effectivity Clause

This _____ shall take effect fifteen (15) days following the date of its publication in a newspaper of general circulation.

5. Examples of Tobacco Industry tactics

Some examples of TI tactics are given below, as well as some useful resources for a more in-depth knowledge of the issue, in order to focus on the reasons why it is highly needed to implement recommendations, sign a DoI and adopt a CoC to counteract TI interference.

TI uses a wide range of tactics to subvert, undermine and prevent proven tobacco control efforts, policies and programs so they can keep and expand their business. The sphere of their influence extends to different fields such as scientific research, politics, law, education and the media (Gannon, 2022).

The tactics used include, but are not limited to, discrediting proven science by sponsoring and promoting research; using 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; promoting misinformation, either directly or through front groups, to exaggerate the economic importance of the industry and its positive role in society (WHO, 2019).

Another issue is that TI targets low-income and middle-income countries (LMICs) which are already facing a growing burden of tobacco-related disease. For example, especially in LMICs, TI has also moved to distance itself from tobacco cultivation through establishing "leaf partnerships" with third-party companies. Instead of direct contracts with farmers, by transferring responsibility for monitoring and addressing problems from TI to leaf companies, TI has continued to reap the benefits of cheap leaf products and to escape responsibility for harmful practices (Gilmore et al., 2015).

In the 9th WHO Report on the global tobacco epidemic (WHO, 2023) the following 9 tobacco tactics are reported:

1. Building increasingly elaborate alliances and front groups to represent its case the "third party technique",
2. Attempting to fragment and weaken the public health community,
3. Disputing and suppressing public health information,
4. Producing and disseminating misleading research and information,
5. Directly lobbying and influencing policymaking,
6. Influencing "upstream" policies, including trade and investment agreements, to make it harder to pass public health regulations,
7. Litigating or threatening litigation,
8. Facilitating and causing confusion around tobacco smuggling, and using this confusion to undermine tobacco control,
9. Seeking to manage and enhance its own reputation by rebranding themselves as environmentally and socially responsible to increase the ability to influence policy.

Other specific TI tactics to undermine smoke-free environments are outlined in the same WHO report.

For a more comprehensive view of TI tactics refer to the dedicated parts on the websites of organizations such as: SEATCA, University of Bath (Tobacco Tactics), STOP (Stopping Tobacco Organizations and Products), Tobacco-Free Kids and (SEATCA, 2020; University of Bath, 2023; STOP, 2023; Tobacco-Free Kids, 2023).

5.1 Influence targeted to policy-making and political lobbying

To achieve their aims, TI manipulates the media often by recruiting and providing financial and other incentives to journalists to be in line with TI goals (Rowell et al., 2014).

Legal challenges is one of the strategies with a long history and is aimed at challenging different policies from tax policies to Tobacco Advertising, Promotion & Sponsorship (TAPS) restrictions, often using the argument that cigarettes are legal products like any other and that punitive control measures are in breach of international trade and intellectual property law. This legal challenge is initiated even when a positive outcome is foreseen (Gannon, 2022).

TI not only sells a defective product that kills half of its consumers, but they also have a long history of pressuring governments to block and delay lifesaving regulations, thus costing the world millions of lives and huge spending every year (ASH USA, 2017).

In fact, political lobbying is the widespread TI strategy to persuade a member of the government to support laws or rules in favor of maintaining and expanding TI business. It involves financial donations to political parties or candidates or covering travel or other costs to obtain support for the TI business (Gannon, 2022). TI utilizes third party collaborations to interfere with tobacco control policy making, or to gain legitimacy as a "stakeholder" and to white wash their reputation (ASH USA, 2017).

The SFP, which aims to promote tobacco control advocacy and policy research at EU and national levels, has been monitoring the EU Transparency Register to identify and measure the representation of TI interests, in order to shed light on the human and economic resources of the TI and its allies, who are lobbying the EU institutions.

SFP published a briefing (in 2022, referring to 2021 data) about TI presence in the EU policy-making environment, reporting TI direct and indirect lobbying spending and the number of TI accreditations to EU institutions, highlighting the fact that no meetings with the European Commission are declared in the Transparency Register (SFP, 2022). It is highly recommended an active surveillance on this issue possibly from DGSante.

In the preliminary opinion of the EU Ombudsman (released on April 18, 2023), regarding its own-initiative inquiry on the transparency of meetings between the European Commission and TI representatives (in 2020 and 2021), it has been highlighted a "maladministration" in the European Commission's approach to meeting with tobacco lobbyists. SFP consider of utmost importance that EU Commission implement the proactive transparency policy put in place by the Directorate-General for Health and Food Safety (DG SANTE) across all departments, following the 2016 EU Ombudsman recommendations (SFP, 2016), as well as that all departments publish online all meetings with TI and the related minutes, and that public health policies are always protected (SFP, 2023).

5.2 Scientific research and front groups

TI knowingly hid the truth about the impact of cigarette smoking for decades and funded research undermining objective scientific findings to protect profits (Briggs & Vallone, 2022).

While some tactics are aimed at youth and minors (WHO, 2020), others, such as the use of front groups and funding scientific research, are specifically aimed to researchers and public officials.

The TI has a long history of influencing the scientific community through tactics mostly related to information management: creating doubt about scientific evidence, funding scientists and commissioning research and reviews, using ghost writing technique (e.g. writing articles or scientific reports which are officially credited to another person).

Practical examples of TI influencing science and funding scientists are sustaining controversy on secondhand smoke (SHS), or providing the US Duke University a multi-million dollar funding to

establish the Duke Center for Nicotine and Smoking Cessation Research (University of Bath, 2020).

TI attempted to counter the scientific evidence on the harms of passive smoking, even using the label of "junk science" (Samet & Burke, 2001) and contested the evidence (epidemiological and biological) that SHS increases cardiovascular disease (CVD) risk, by affecting the design and interpretation of their own cardiovascular studies (Tong & Glantz, 2007). Moreover, TI persuaded a researcher to change his conclusion that SHS is an independent risk factor for Sudden Infant Death Syndrome (SIDS) to state that the role of SHS is "less well established". The integrity of the scientific process is definitely compromised by TI funding (Tong et al., 2005).

To undermine smoke-free policies in multi-unit housing, TI used the tactics of distortion (funding studies that downplayed the link between SHS and asthma among low-income residents) and deflection (engaging in corporate responsibility for youth programs) (Miller & Vijayaraghavan, 2022).

The public reporting of 5 clinical trials funded by Juul Labs (US electronic cigarette company) was found to have specific outcome reporting biases (of 61 specified outcomes, 28 were CONSORT compliant). No full results of these trials were published on the Clinicaltrials.org website. The lack of transparency of the results reporting cannot support public health professionals, clinicians, and the public in making informed choices about the benefits or harms of electronic cigarettes (DeVito et al., 2023).

TI has created websites to promote their own science, and used them to report their approaches to the science on newer products nicotine and tobacco products for alleged harm reduction purposes (University of Bath, 2023).

Moreover, TI uses front groups such as FOREST (The Freedom Organization for the Right to Enjoy Smoking Tobacco) for mobilizing support and many other front groups to lobby health organizations with recent examples of this being the Foundation for a Smoke-Free World (FSFW). FSFW is a self-declared "independent and non-profit organization" but whose sole funder is actually PMI (Gannon, 2022).

TI is infiltrating scientific spaces: FSFW published articles in established journals (e.g. International Journal of Environmental Research and Public Health and Drugs and Alcohol Today), by circumventing conflict-of-interest documentation and policies or by hiding their role in funding (Briggs & Vallone, 2022).

TI aims also at influencing scientific conferences: for example, the Society of Research on Nicotine and Tobacco (SRNT) used to allow the participation of TI researchers in the annual meetings, but after many researchers started to complain about this excessive overwhelming presence, SNRT decided to ban the TI participation (Briggs & Vallone, 2022).

It is particularly important for scientists and experts to be aware of the TI practice of funding scientific research which is documented in TI documents that are available since the 1990s (Schick & Glantz, 2007). Presently, this practice continues as was also seen during the COVID-19 pandemic (Gallus, 2022; STOP, 2022; Hagen & Dorado, 2023).

5.3 Harm reduction

TI uses the "harm reduction" (term used since 1999) concept to gain access and (re)start a dialogue with policy-makers, scientists and the public health community and to rebuild its reputation as a responsible industry (Peeters & Gilmore, 2015). TI has been promoting their research and development efforts in developing potentially reduced harm tobacco/nicotine products defining them as "one of the biggest public health opportunities of this generation" (STOP, 2020). Actually, the tobacco and nicotine industries work strategically to delay and defeat policy measures worldwide in order to promote and protect the viability of their business, employing various tactics that interfere with government efforts for public health protection (SEATCA, 2020).

In a recent analysis by Edwards et al. (2022), no evidence was found for any tobacco company rapidly progressing towards eliminating conventional tobacco products, ceasing to obstruct effective tobacco control measures and taking action to minimise smoking uptake and disparities. TI actions are more consistent with profit maximisation than eliminating conventional product use, which is best described as 'pseudo-transformation', designed to delay implementation of effective tobacco control policies (Edwards et al. 2022).

In a context of interference in policy-making, TI argues that Heated Tobacco Products (HTP) should be subject to lighter regulation than conventional cigarettes. In fact, TI emphasizes that HTPs heat tobacco without combustion, in order to claim that HTP are "reduced risk" products compared to conventional cigarettes. The approach that HTP aerosols do not constitute tobacco smoke is being used as part of the tobacco harm reduction concept promoted by TI (WHO FCTC, 2021). TI uses a number of tactics in pursuing relatively light regulation for HTP, including downplaying and ignoring health risks from HTP, lobbying parliamentarians directly in order to bypass health authorities, and funding front groups to push a "harm reduction" narrative (WHO FCTC, 2021).

TI sponsors the so-called "smoke-free" policies at holiday destinations which appear to encourage tourists and locals to stop smoking cigarettes, while heavily promoting its HTP (e.g. Astypalea in Greece or Canary Islands with "La Graciosa Smoke Free Initiative", which received a Smoke-Free Culture certification from TUV Austria for its campaign to encourage either "quitting" cigarettes or switching to alternatives such as HTP (University of Bath, 2022).

5.4 Corporate Social Responsibility (CSR) and Greenwashing

Corporate Social Responsibility (CSR) is "The idea that a company should be interested in and willing to help society and the environment as well as be concerned about the products and profits it makes". TI implements a variety of environment/sustainability-themed CSR programs across the world in order to enhance their corporate image. CSR is part of the TI greenwashing efforts (e.g. charitable donations, donations to disaster relief efforts, funding various environmental sustainability organizations). TI uses CSR programs around sustainability to pre-empt regulation and influence policymakers. TI CSR activities are now very relevant in the environmental sector, where regulators are not so well aware of the WHO FCTC (STOP, 2021). TI should not be allowed to communicate to the public at all.

They have also used environmental impact disclosure processes and sustainability awards from external bodies to try to create a sense of legitimacy and present their industry as socially and environmentally friendly. TI states that reducing the environmental impact of their operations is a key part of their visions for corporate sustainability (e.g. by downplaying the amount of water needed to produce tobacco by comparing it with the amounts necessary to produce tea or chocolate, per weight of finished product, ignoring the differentiator that these other products do not damage health, as tobacco does) (University of Bath, 2022).

The TI widespread strategic use of misleading CSR and sustainability reporting to facilitate tobacco promotion, requires urgent regulatory attention (Greenland at al., 2020).

TI tactics also include offering scholarships to high school, college and graduate students (such as in US, Israel and UK) and sponsoring school programs and youth camps (WHO, 2020; Baler et al., 2020), as well as cultural events and sports (for example in Europe: Italy, Romania, Spain, etc.) (Jackler et al., 2020), despite sponsorship by TI in sports being widely banned with the notable exception of motorsports and Formula 1 (Freeman at al., 2022; STOP, 2020; Blum, 2005).

It is also worth of note that especially in the past ten years, TI is seeking to transform itself towards wellness and health care areas by investing and acquiring pharmaceutical companies (WHO, 2023; Sy, 2023). These pharmaceutical acquisitions are part of a CSR strategy. Paradoxically, tobacco companies profit from selling medicines for health conditions, many of which are caused by tobacco

products themselves (Sy, 2023).

Some important CSR activities of TI also include contribution of millions in annual funding to charities such as donations to the Red Cross (University of Bath, 2021). Also TI utilized the COVID-19 pandemic for their CSR activities. Many governments, made vulnerable by the pandemic, freely accepted and endorsed charity from the TI, when such donations often come with strings attached, and compromised on tobacco control policies (GGTC, 2021b).

CSR include the practice of "Greenwashing", used by industries to market their goods and/or image as environmentally friendly in an effort to increase product sales and divert public attention from their own environmentally damaging practices. Reporting environmental impact and funding environmental CSR projects and organizations, serves to "greenwash" tobacco companies, and detract from the harms the industry inflicts on the environment and environmental health. TI has historically greenwashed its reputation and products through programmes such as beach clean-ups, marketing of new products as "eco-friendly" and funding environmental organisations, especially in LMICs (University of Bath, 2022).

TI continues to use so-called CSR to access high-level policy-makers, including those in non-health sectors (WHO, 2019).

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7. List of acronyms

ASH	Action on Smoking and Health
CoC	Code of Conduct
CoI	Conflict of Interest
CONSORT	(CONsolidated Standards of Reporting Trials)
COP	Conference of the Parties of WHO FCTC
COVID-19	Coronavirus disease 2019
CSR	Corporate Social Responsibility
DHA	Danish Health Agency
DIHR	Danish Institute for Human Rights
DG SANTE	Directorate-General for Health and Food Safety (of the EU Commission)
DoI	Declaration of Interest
EU	European Union
FCTC	Framework Convention on Tobacco Control
FOREST	Freedom Organization for the Right to Enjoy Smoking Tobacco
FSFW	Foundation for a Smoke-Free World
GGTC	Global Center for Good Governance in Tobacco Control
HSE	Health Service Executive
HTP	Heated Tobacco Products
JATC2	Joint Action on Tobacco Control 2
LMIC	Low-income and Middle-Income Countries
MS	Member State
PMI	Philip Morris International

RIA	Regulatory Impact Analysis
SEATCA	Southeast Asia Tobacco Control Alliance
SFP	Smoke Free Partnership
SHS	Secondhand smoke
SIDS	Sudden Infant Death Syndrome
SNRT	Society of Research on Nicotine and Tobacco
STOP	Stopping Tobacco Organizations and Products
TAD	Tobacco Advertising Directive
TAPS	Tobacco Advertising, Promotion & Sponsorship
TPD	Tobacco Products Directive
TI	Tobacco Industry
UN	United Nations
WHO	World Health Organization
WHO FCTC	World Health Organization Framework Convention on Tobacco Control
WP	Work Package