

How to Protect Public Policy from the Tobacco Industry: Key elements of Article 5.3 Guidelines

As Parties to the World Health Organization's Framework Convention on Tobacco Control (FCTC) agree, there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests. Article 5.3 of the FCTC obligates Parties to protect public health policies from commercial and other vested interests of the tobacco industry. Article 5.3 Guidelines, developed to implement the FCTC, elaborate on effective measures for addressing tobacco industry influence and interference in public health policies. Parties are strongly urged to enact measures beyond those set forth in the Guidelines.

Article 5.3 Guidelines apply to:

- Officials, representatives, and employees of any government or semi/quasi-public institution or body responsible for, or that contributes or could contribute, to developing or implementing TC policies, and to any persons acting on their behalf. (Guidelines, para. 9-10)
- The tobacco industry (as defined by FCTC Art. 1), whether private or government-owned and, organizations, entities, associations, and individuals that represent it or that work to further its interests.

Government should do the following to effectively implement Article 5.3:

- **Raise awareness that tobacco products are addictive and deadly and that tobacco smoke causes disease, disability and death.** (Rec. 1.1)
- **Disseminate knowledge of the tobacco industry's tactics of using individuals, front groups, and affiliated organizations to further the tobacco industry's interests.** (Rec. 1.2)
- **Limit interactions with the tobacco industry to only those necessary to effectively regulate the tobacco industry and tobacco products. When interactions with the tobacco industry are necessary, such activities should be conducted transparently in public through hearings, notices of interactions, and disclosure of records, e.g. public hearings transcripts, meeting notes, correspondence, notes of conversations.** (Rec. 2.1 and 2.2)
- **Reject any partnerships, non-binding or non-enforceable agreements and any voluntary arrangement put forth by the tobacco industry or its allies or where such agreements are offered as a substitute for legally enforceable measures, e.g. memoranda of understanding with the tobacco industry to provide for so-called accommodation measures.** (Rec. 3.1 and 3.3)
- **Reject any offer for assistance or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry.** (Rec. 3.4)

- **Prohibit tobacco industry involvement in any youth, public education, or other tobacco control initiative and prohibit involvement, in any manner, of initiatives directly or indirectly related to tobacco control.** (Rec. 3.2)
- **Avoid conflicts of interests for government officials and employees.**
 - Ban political contributions by the tobacco industry, or alternatively, require full disclosure of such contributions. (Rec. 4.11)
 - Prohibit payments, contributions, gifts, and services to government institutions, officials, or employees (except payments mandated by law);
 - Prohibit tobacco industry representatives, or any entity acting to further the tobacco industry’s interests, from being a member of any government body, committee, or advisory group that sets or implements public health policy (Rec. 4.8)
- **Require the tobacco industry to publicly report activities and practices and impose mandatory penalties for providing false or misleading information.**
 - e.g, Registration of lobbyists and payments to lobbyist, production, manufacture, market share, revenues, lobbying, philanthropy, political contributions, other activities not yet banned, and other specified activities and practices (payments to scientists/researchers, journalists; for research, conferences, etc.). (Rec. 5.2-5.5)
- **Denormalize and regulate purported “socially responsible” activities carried out by the tobacco industry, e.g., no endorsement, support or formation of partnerships with the tobacco industry and correction of any perceptions of partnerships created by the tobacco industry** (Guidelines, para. 20; Rec. 6.1-6.4)
- **Do not provide incentives, privileges, benefits or exemptions for the tobacco industry and Parties with State-owned tobacco industry should ensure that any investment in the tobacco industry does not prevent them from fully implementing the FCTC.** (Rec. 7.1-7.3)
- **Monitor activities of the tobacco industry by nongovernmental organizations and other members of civil society not affiliated with the tobacco industry.** (para. 32 and 33)

Additional Resources

Article 5.3 Guidelines [English] can be accessed at http://www.who.int/fctc/guidelines/article_5_3.pdf.

The WHO Tobacco Free Initiative released its guide, “Tobacco industry interference with tobacco control” in 2009, which can be used to educate policy makers on tactics used by the tobacco industry to undermine tobacco control and provide examples for monitoring these types of tobacco industry activities.

<http://www.who.int/tobacco/resources/publications/Tobacco%20Industry%20Interference-FINAL.pdf>