

Tobacco industry tactics: smoke-free environments

The tobacco industry uses “accommodation policies”, such as designated smoking areas, to promote the “social acceptability” of smoking and encourage smoking or smoking initiation. Transnational tobacco companies mobilize the hospitality industry, downplay the dangers of tobacco smoke and provide donations, political contributions and funds for so-called corporate social responsibility (CSR) activities that can influence policy-makers and enforcers.

Introduction

Secondhand smoke has long been linked to diseases such as lung cancer, heart disease and stroke, with specific effects on women (reproductive effects such as low birthweight) and children (asthma and sudden infant death syndrome) (1). Article 8 of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) sets a universal standard for “100% smoke-free environments” in all indoor areas and some outdoor public areas. The tobacco industry promotes designated smoking areas, which are shown to be ineffective, to ensure that smokers are able to use their products conveniently in as many places as possible (2). This is a sales and marketing strategy to ensure that customers will use more tobacco products and contribute to the “social acceptability” and normalization of smoking and tobacco use (3).

In the WHO Eastern Mediterranean Region, with the exception of a few countries, men, women and children continue to be exposed to secondhand smoke in indoor public places such as restaurants, bars and even workplaces (4). Tobacco industry interference is a key obstacle to 100% smoke-free policies in the Region. The tobacco industry’s internal documents show how, from the 1980s to the 1990s, it sought to undermine smoke-free policies in the Middle East by:

- reversing scientific and popular opinion that environmental tobacco smoke is harmful;
- advancing pseudo-scientific arguments;
- recruiting third parties (scientists/toxicologists) not associated with tobacco companies;
- hiding links with public relations agencies by making sure agency bills go to third parties (nongovernmental organizations, professional societies);

- promoting a Courtesy of Choice programme (in Kuwait, Oman, Saudi Arabia, United Arab Emirates)
- speaking as “independent scientists”;
- planting articles questioning the science behind environmental tobacco smoke restrictions (in Saudi Arabia and Gulf Cooperation Council countries);
- inserting itself into independent scientific gatherings;
- briefing government officials in foreign locations when in-country briefing is undesirable (5).

Leaked documents show that Philip Morris International was using similar strategies in 2014 (6). The company’s corporate plan showed the continuing tactic to establish the company as “credible” in order to lobby policy-makers, with the intention of limiting governments’ regulatory roles. This strategy would be executed by using third party scientists to advance the company’s interests, and utilizing public relations and media to “normalize” the use of its products – essentially undermining both Article 5.3 and Article 8 of the WHO FCTC.

Leaked: the 10-year corporate plan of Philip Morris

For novel tobacco products and e-cigarettes, Philip Morris aims to “**overturn existing bans**”; “support successful commercialization of its products”; and promote a regulatory framework that secures the “ability to buy and enjoy the products.” It also aims to establish itself as “part of the solution” and **engage third party allies** (consumers, harm reduction advocates, scientific community) globally and locally, and “**continue to engage with regulators globally**” (emphasis supplied).

For both cigarettes and its new products, Philip Morris International is intent on supporting smokers’ rights (“supporting their right to choose”), limiting the government’s ability to regulate (“define government’s role as educating consumers and protecting the public rather than excessively restricting individual choices regarding purchase and consumption”), and undermining tobacco control regulations (“promote regulation that makes it politically unattractive to implement excessive sales regulations/ restrictions, e.g. in the area of DF via engaging directly with policy makers, media and third parties”). Notably, despite the rhetoric around a “smoke-free world”, nothing in the 10-year plan focused on protecting the rights of non-smokers.

Source: Tobacco industry corporate strategies: then and now. Bangkok: Global Center for Good Governance in Tobacco Control (GGTC), Stopping Tobacco Organizations and Products (STOP) project (forthcoming publication).

Tobacco industry arguments

The tobacco industry's arguments against smoke-free policies are the same in different jurisdictions.

What the tobacco industry says	What studies show
<p>Implementing smoke-free laws will result in business losses and thereby cause unemployment, especially among restaurants, bars and other establishments in the hospitality industry.</p>	<p>The tobacco industry has not been able to prove this claim of business losses (7). Studies of the impact of smoke-free policies in bars and restaurants in some jurisdictions show that the policy improved health and productivity of workers, as well as resulted in increased revenues for employers, thus negating the industry arguments. Meanwhile, exposure to secondhand smoke imposes significant costs to society (8). Modest estimates show that employers would save money in terms of reduced liability and insurance costs, increased worker productivity and reduced maintenance costs (9). The experience of Mexico City in the implementation of its 2008 smoke-free law confirms there is no negative impact on the income or economic productivity of restaurants and bars. In contrast, the impact was positive (though statistically non-significant) (10).</p>
<p>Smoke-free policies should be implemented gradually.</p>	<p>Many case studies show that “jurisdictions can go and have gone from virtually no smoke-free legislation to comprehensive 100% smoke-free legislation in a single step. Scotland and Uruguay are just two significant examples” (9). The standards for smoke-free policies and clear guidance provided by the Article 8 Guidelines further facilitate progress in this area.</p>
<p>Smoke-free policies are against smokers’ right to smoke.</p>	<p>Smokers can still smoke as long as they do not impinge on the right of others to a healthy environment. Furthermore, there is no “right to smoke” in any national constitution or international human rights law. Conversely, the right to life, the right to the enjoyment of the highest attainable standard of health, the right to a healthy environment, and other rights relevant to protection from exposure to tobacco smoke, are found in numerous international human rights laws (9).</p>
<p>Policies must include “accommodation policies” such as filtration and ventilation systems in indoor designated smoking areas.</p>	<p>Evidence shows that there is no safe level of exposure to secondhand smoke and accommodation policies recommended by the tobacco industry have not been proven to work. Smoking rooms are often not built according to specifications, while filtration and ventilation systems are not effective in removing toxins. Even when laws require doors to designated smoking areas to be constantly closed, these are often left open and smoke can leak to smoke-free areas (11). The tobacco industry has long known that the filtration and ventilation systems are ineffective in removing harmful constituents of secondhand smoke.</p>

What the tobacco industry says

100% smoke-free environments are not enforceable: people will not obey the law.

What studies show

100% smoke-free policies are simpler to enforce as it is easy to visually determine compliance by observing if anyone is smoking indoors. "Unclear laws that designate square footage or percentages for non-smoking and smoking sections; prohibit smoking only during certain hours in specific establishments; or set requirements for designated smoking rooms create confusion for institutions implementing the law, and for employees and customers and inspectors enforcing the law (9)."

Tobacco industry tactics

The tobacco industry uses multi-pronged tactics to undermine smoke-free policies. The most common forms of these tactics, and related examples, are given below.

Research tactics – discrediting proven science, and exaggerating the economic importance of the industry

Tactic	Description/example	Counter-tactics
Commissioning research	<p>For decades, tobacco companies have hired scientists to discredit the science on the harms of secondhand smoke (e.g. Project Whitecoat) (12). As late as 2007, a tobacco industry-linked scientist continued to deny the science behind secondhand smoke. This can cause confusion in populations that are unaware of the dangers from secondhand smoke. (e.g. in Egypt about 15% of the population do not believe or know that secondhand smoke causes heart disease, while 61% of indoor workers are exposed to secondhand smoke).</p> <p>Other types of research backed by the tobacco industry focus on the exaggerated costs of compliance and impact on the economy or employment.</p> <p>In 2017, the Foundation for a Smoke-Free World was established using Philip Morris funds. Although this entity has been denounced by WHO and the public health community (13), there is a concern that its grant mechanism allows it to contribute to research that would unduly influence policy (14).</p>	<p>Raise awareness; require information from the tobacco industry, (Article 5.3, recommendations 1 and 5).</p> <p>In addition to raising awareness about the harms of secondhand smoke and tobacco industry tactics, Parties should raise awareness about the practice of using individuals, front groups and affiliated organizations to act, openly or covertly, on behalf of or to take action to further the interests of the tobacco industry. National governments should require information about the tobacco industry's marketing expenses and require a registry for its lobbyists in order to assist local governments in determining the identity of those representing tobacco industry interests.</p> <p>Because the tobacco industry's efforts to obfuscate science is part of its strategy to defraud the public, a United States court found the activities of the Philip Morris External Research Program in funding research was an "element of continuing fraud". This has resulted in many research universities turning down tobacco industry funding (15).</p>

Legal tactics – conspiring to hijack the political and legislative process, and intimidating governments with litigation or the threat of litigation

Tactic	Description/example	Counter-tactics
<p>Providing political/campaign contributions or gifts to policy-makers</p>	<p>In countries that regulate campaign finances or have strong freedom of information laws requiring funding to be publicly accessible, tobacco companies are shown to regularly make campaign contributions (e.g. Australia, United States, United Kingdom) (16).</p> <p>The donations to local government officials can come in the form of so-called CSR, which includes contributions during disasters, for tree planting, or any form of donation for the local official's pet project.</p>	<p>Limit interactions; avoid conflicts of interest; require information from the tobacco industry (Article 5.3, recommendations 2, 4 and 5).</p> <p>Aside from requiring information that would help to determine who is representing tobacco industry interests, governments must adopt codes of conduct that include disclosure of interest and prescribe standards on limiting interactions with the tobacco industry (only when necessary for regulations) and ensuring that meetings are transparent to the public. For example, public notice of interactions and records of interactions can be posted on government websites, as in Australia (17) and Canada (18).</p>
<p>Lobbying directly, or providing legislative drafts</p>	<p>Regarding smoke-free policies, tobacco companies are typically ready to provide model legislation or alternative language.</p> <p>Internal documents show that the tobacco industry planned to conduct "briefings for Government officials in foreign locations, should in-country briefings become impractical or undesirable" (5).</p>	<p>Limit interactions; reject agreements (Article 5.3, recommendations 2 and 3).</p> <p>Governments should not accept, support or endorse any instrument drafted by the tobacco industry, or any offer of assistance, or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry. Interactions with the industry must be limited to those strictly necessary for regulation, and any such meeting must be transparent in order to be above suspicion.</p>

Tactic	Description/example	Counter-tactics
<p>Challenging policy to delay implementation</p>	<p>The tobacco industry has launched many unfounded legal challenges to undermine or delay smoke-free policies. Arguments used include smokers' fundamental rights, limited scope of local authority, business losses and lack of due process.</p> <p>Even as Philip Morris International announced its "smoke-free" initiative to the world in 2017, it challenged 100% smoke-free policy in a campus town in the Philippines. Although the majority of cases are unsuccessful, they cause delay and sow doubt and confusion among policy-makers elsewhere.</p>	<p>Raise awareness; limit interactions; reject agreements; avoid conflicts of interest; ban so-called CSR; no preferential treatment (Article 5.3, recommendations 1, 2, 3, 4, 6 and 7).</p> <p>The tobacco industry's strategy is to delay, intimidate and confuse, even if a case cannot be won. Governments must raise awareness of this industry tactic in order to prevent misinformation.</p> <p>Transnational tobacco companies often base arguments on their entitlements as investors. Tobacco companies must not be treated like any other investor and must not be granted any incentives, benefits or privileges to run their business.</p> <p>Having a comprehensive code of conduct that covers disclosure of interests, avoiding unnecessary meetings and rejecting offers/ contributions from the tobacco industry will help to ensure that the legal process is not unduly influenced.</p> <p>Banning CSR activities will help prevent public misinformation and, at the same time, plug a source of "contributions" or "payments" that could influence policy or legal decisions.</p>

Public relations tactics – faking support through front groups, and manipulating public opinion to gain the appearance of respectability

Tactic	Description/example	Counter-tactics
<p>Using front groups and third parties to represent its interests</p>	<p>The tobacco industry has a history of backing smokers’ rights groups and restaurant, bar and hotel associations to clamour against smoke-free laws, promoting alternatives such as indoor designated smoking areas and special lounges with ventilation systems (9).</p> <p>The leaked plans of Philip Morris in 2014 reveal that utilizing third parties remains a core strategy, including retailers, consumers, scientific community and tobacco harm reduction advocates (19).</p>	<p>Require information; denormalize so-called CSR (Article 5.3, recommendations 1 and 6).</p> <p>In many jurisdictions, the popularity of smoke-free policies, even among smokers, tends to overpower third-party voices. Nevertheless, it will help local government and enforcement officials to prevent unnecessary interactions with the tobacco industry, and those representing its interests, if they can identify third parties. National governments should require information about the tobacco industry’s marketing activities, including its lobbyists and entities it funds, and provide a publicly accessible registry.</p> <p>Because so-called CSR is a means to channel funds to front groups, banning and denormalizing so-called CSR is key to reducing tobacco industry influence.</p>
<p>Using the media to promote misinformation</p>	<p>Tobacco companies use the media to promote the research of industry-funded scientists. Incentives given to the media include funded trips to tobacco facilities, and encouragement to join tobacco-funded competitions, grants and awards (20). Internal documents show how tobacco companies used the media to plant misinformation targeted to GCC countries (5).</p>	<p>Require information; ban so-called CSR; enforce comprehensive advertising bans (Articles 5.3 and 13).</p> <p>Strong enforcement of a comprehensive ban on advertising should include misleading media output sponsored by the tobacco industry. In order to regulate the tobacco industry’s media activities, governments must require information about its marketing expenses and media activities. Sponsorships, competitions and related activities targeting media should also be denormalized/banned.</p>

Tactic	Description/example	Counter-tactics
<p>Using so-called CSR to advance its agenda</p>	<p>Using the Respecting Choices campaign, British American Tobacco Egypt signed a memorandum of understanding with a local government to provide restaurant and hotel patrons with designated smoking and non-smoking areas, and provide establishments with signage, ventilation methods and staff training (5).</p> <p>In other jurisdictions, contributions and donations in the guise of CSR are made in exchange for weakening of legislation. Such action has been defined as “bribery” and classified as part of “corrupt activities”, in which large tobacco companies have been found to be involved (21).</p> <p>Other related smoke-free activities by the tobacco industry include youth smoking prevention programmes and giving away of ashtrays.</p> <p>In 2017, the Foundation for a Smoke-Free World was established using Philip Morris funds, a so-called CSR strategy by the tobacco industry.</p>	<p>Raise awareness; reject agreements/partnerships; denormalize CSR (Article 5.3, recommendations 1, 3 and 6).</p> <p>Governments should denormalize and, to the extent possible, regulate activities described as “socially responsible” by the tobacco industry. Banning so-called CSR is an important step to avoid unnecessary interactions between the tobacco industry and local enforcement officials, and prevent potentially corrupt activities.</p> <p>The same rule should apply to so-called socially responsible activities of the Foundation for a Smoke-Free World, an entity entirely funded by Philip Morris, and similar tobacco-funded entities which represent the interests of the tobacco industry. The global public health community’s open letter to urge WHO to reject the Foundation for a Smoke-Free World anew (22) helps in raising awareness about this tobacco industry tactic and preventing government partnerships with tobacco industry-funded entities.</p>
<p>Creating media content to oppose smoke-free policies</p>	<p>During deliberations over smoke-free policies, the tobacco industry’s arguments are reflected in published statements of tobacco allies and front groups in key media outlets. The resulting misinformation sows public confusion.</p>	<p>Raise awareness; require information; ban so-called CSR (Article 5.3, recommendations 1, 5 and 6).</p> <p>Governments should raise awareness about the harms of secondhand smoke and the tobacco industry’s practice of using individuals, front groups and affiliated organizations to act, openly or covertly, on their behalf or to take action to further tobacco industry interests.</p> <p>Requiring submission of public relations and other marketing-related expenditures of the tobacco industry will help reveal the identity of front groups and spokespersons.</p> <p>Because so-called CSR is a means to channel funds to the media, banning and denormalizing CSR is key to reducing tobacco industry influence.</p>

Countering new tactics

With the marketing of e-cigarettes and novel tobacco products in mind, the tobacco industry is narrowing the scope of “smoke-free” to secondhand cigarette smoke (23), resulting in public confusion and regulatory challenges. In 2017, Philip Morris, with US\$ 10 billion investment, established the Foundation for a Smoke-Free World as a grant-making body, and in 2019 launched the It’s Time to Unsmoke campaign.

With the advent of novel tobacco/nicotine products, tobacco companies have prepared to engage “non-traditional” or potentially new allies to challenge 100% smoke-free laws, likely to create a carve-out for vaping and use of novel tobacco products. Governments need to prepare to protect their policies from the commercial and vested interests of the tobacco industry as laid out in their plans. At the minimum, governments must have a clear policy of rejecting the research and policies drafted or commissioned by the tobacco industry and those representing its interests (14). It should be stressed that WHO has recommended extending the scope of smoke-free legislation to include waterpipes, e-cigarettes and other novel tobacco products (such as heated tobacco products), especially for indoor air policies (24). However, in many countries, smoke-free policies typically exclude (or are silent on) this matter.

Recommendations

The Guidelines for implementation of Article 5.3 of the WHO FCTC provide clear ways to counter tobacco industry tactics. For instance, banning so-called CSR activities by the tobacco industry reduces the industry’s opportunity to access policy-makers and potential “allies” or front groups. Requiring information from the tobacco industry, including its political contributions, helps to identify and expose its tactics. Furthermore, raising awareness about tobacco industry tactics helps to address the industry’s interference in tobacco control policies. To prevent undue influence on policy-makers, governments should adopt a code of conduct that prescribes measures to avoid conflicts of interest and unnecessary interactions with the tobacco industry, as well as to ensure transparency of interactions that occur. Underpinning these measures is raising awareness about the nature of tobacco products themselves, and the true purpose of “socially responsible” activities performed by the tobacco industry.

Governments must have a clear policy of rejecting the research and policies commissioned by the tobacco industry.

Article 5.3 Guidelines

Recommendations

1. **Raise awareness** about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties’ tobacco control policies.
2. Establish **measures to limit interactions** with the tobacco industry and **ensure the transparency** of those interactions that occur.
3. **Reject partnerships** and non-binding or non-enforceable agreements with the tobacco industry.
4. **Avoid conflicts of interest for government officials and employees.**

5. **Require that information collected** from the tobacco industry **be transparent and accurate.**
6. **Denormalize** and to the extent possible, regulate **activities described as “socially responsible”** by the tobacco industry, including but not limited to activities described as “corporate social responsibility”
7. **Do not give privileged treatment to tobacco companies.**
8. Treat State-owned tobacco companies in the same way as any other tobacco industry

Enforcement

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

Monitoring implementation of Article 5.3 and of the Guidelines

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

References

1. Second-hand tobacco smoke. International Agency for Research on Cancer. (<https://monographs.iarc.fr/wp-content/uploads/2018/06/mono100E-7.pdf>).
2. Guidelines for implementation of Article 8: protection from exposure to tobacco smoke. (https://www.who.int/fctc/treaty_instruments/adopted/Guidelines_Article_8_English.pdf?ua=1).
3. World No Tobacco Day 2007: smoke-free inside: create and enjoy 100% smoke-free environments. Geneva: World Health Organization; 2007 (https://www.who.int/tobacco/wntd/2007/wntd_2007_brochure.pdf).
4. WHO report on the global tobacco epidemic, 2019. Geneva: World Health Organization; 2019.
5. Voice of truth, second edition. Cairo: WHO Regional Office for the Eastern Mediterranean; 2008 (<http://applications.emro.who.int/dsaf/dsa910.pdf>).
6. 10-year corporate affairs objectives and strategies. Philip Morris International. Contributed by Reuters News, Thomson Reuters; 2014 (<https://www.documentcloud.org/documents/4333395-10-Year-Corporate-Affairs-Objectives-and.html>).
7. Myth 8: Smoke-free laws harm the hospitality and tourism sectors [website]. Cairo: WHO Regional Office for the Eastern Mediterranean (<http://www.emro.who.int/tobacco/tobacco-free-public-places/myth-8-smoke-free-laws-harm-the-hospitality-and-tourism-sectors.html>).
8. Torre GL. Smoking prevention and cessation. Berlin:: Springer Science & Business Media; 2013 (<https://www.springer.com/gp/book/9781461470458>).
9. Protection from exposure to second-hand smoke: policy recommendations. Geneva: World Health Organization; 2007 (https://www.who.int/tobacco/resources/publications/wntd/2007/PR_on_SHS.pdf).
10. López CM, Ruiz JA, Shigematsu LM, Waters HR. The economic impact of Mexico City's smoke-free law. *TobControl*. 2011;20(4):273–8 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3122880/>).
11. Guidelines on protection from exposure to tobacco smoke. Geneva: World Health Organization; 2007 (https://www.who.int/fctc/cop/art%208%20guidelines_english.pdf?ua=1).
12. Neilsen K, Glantz SA. A tobacco industry study of airline cabin air quality: dropping inconvenient findings. *Tob Control*. 2004;13(Suppl 1):i20–i29 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1766143/>).

13. Resources to counter Foundation for a Smoke-Free World [website]. Bangkok: Global Center for Good Governance in Tobacco Control (<https://ggtc.world/countering-fsfw/>).
14. Countering the Foundation for a Smoke-free World (FSFW). Bangkok: Global Center for Good Governance in Tobacco Control; 2018 (ggtc <https://ggtc.world/dmdocuments/GGTC-Brief-No3-FSFW.pdf>).
15. United States et al. v. Philip Morris USA et al, 449 F Supp. 2d 1, 2006 U.S. Dist. Lexis 57759. 2006 (c).
16. Griffiths E. Tobacco companies are biggest political spenders [website]. Sydney: ABC News; 2012 (<https://www.abc.net.au/news/2012-02-01/donations-yarn/3805064>).
17. Handbook on implementation of WHO FCTC Article 5.3: policies and practices that protect against tobacco industry interference. Second edition. Bangkok: Global Center for Good Governance in Tobacco Control; 2018 (<https://ggtc.world/dmdocuments/Handbook%20Implementation%20WHO%20FCTC%2053.pdf>).
18. Health Canada Tobacco Control Directorate and tobacco and vaping industry meetings. Ottawa: Government of Canada (https://www.canada.ca/en/health-canada/services/health-concerns/tobacco/meeting-summaries-tobacco-vaping-industry.html?fbclid=IwAR0XjSFn434dMTwMI75OG_Pq1QubeayMhCID_GfUGYh41f148uijMkXhEx0).
19. Karla A, Bansal P, Wilson D, and Lasseter T. Exclusive: documents reveal Philip Morris' campaign to subvert the world's anti-smoking treaty [website]. Reuters; 2017 (<https://www.reuters.com/article/us-pmi-who-fctc-tobacco-exclusive/exclusive-documents-reveal-philip-morris-campaign-to-subvert-the-worlds-anti-smoking-treaty-idUSKBN19Y1DN>).
20. McDaniel PA, Lown EA, Malone RE. US Media coverage of tobacco industry corporate social responsibility initiatives. J Community Health. 2018;43(1):117-27 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5756529/>).
21. Constantin A. Tobacco industry, bribery and anticorruption. Washington DC: O'Neill Institute for National and Global Health Law; 2019 (<https://oneill.law.georgetown.edu/tobacco-industry-bribery-and-anticorruption/>).
22. Open letter to urge WHO Executive Board to reject Foundation for a Smoke Free World (FSFW). Bangkok: Global Center for Good Governance in Tobacco Control; 2019 (<https://ggtc.world/2019/01/28/an-open-letter-to-urge-who-executive-board-to-reject-fsfw/>).
23. It's time to unsmoke: why now is the time to act? [website]. Philip Morris International (n.d.) (<https://www.pmi.com/itstime/it's-time-to-unsmoke---why-now>).
24. Decision FCTC/COP7(4). Control and prevention of waterpipe tobacco products. Conference of the Parties to the WHO Framework Convention on Tobacco Control, seventh session, Delhi, India, 7-12 November 2016, FCTC/COP7(4), p. 1-2. ([https://www.who.int/fctc/cop/cop7/FCTC_COP7\(4\)_EN.pdf?ua=1](https://www.who.int/fctc/cop/cop7/FCTC_COP7(4)_EN.pdf?ua=1)).

© **World Health Organization 2019**

Some rights reserved. This work is available under the Creative Commons Attribution-NonCommercial-ShareAlike 3.0 IGO licence (CC BY-NC-SA 3.0 IGO; <https://creativecommons.org/licenses/by-nc-sa/3.0/igo>).