Enforcing transparency by requiring and managing information from the tobacco industry
Case study: France

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Presentation for Webinar on FCTC Article 5.3 organized by WHO FCTC Secretariat’s Knowledge Hub on Article 5.3
French background

1. Despite a dramatic decrease these last two years smoking prevalence remains high (18–75 years old)
   31.8% are occasional & daily smokers

2. France ratified FCTC in 2004 and has a comprehensive TC legislation

3. Evaluation of weaknesses:
   Lack of TC strategy and insufficient enforcement of provisions

* : évolution significative entre 2017 et 2018 (p<0,05).

Bull Epidemiol Hebd 2019 ; n° 15
Why requiring information & transparence to the TI?

- Toxicity of tobacco products
- The tobacco industry – An industrial epidemic
- Fundamental and irreconcilable conflict
  ⇒ Justified legitimation and proportionality to adopt particular provisions – FCTC process
  ⇒ Transposition of international recommendations in the French law particularly re Article 5.3 and its guidelines

- Objectives:
  - To prohibit TI’s activities (ex advertising)
  - To regulate if not possible to ban and particularly ask for transparency and need to monitor & check
**Methodology – Show the magnitude of the problem**

**Research: Interference of the tobacco industry in France**

- **Block, amend, delay**

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**INTRUSION DANS LES GRANDES ECOLES ET UNIVERSITES**
- Institut de Criminologie - Université Paris-Assas II
- Club de Cigarettes à l'IEP-Sciences Po, Essec, HEC
- Concours du Lobbying Spin Partners
- Stages

**DESINFORMATION DES JOURNALISTES ET DU PUBLIC**
- Le site lamondedutabac.com
- Le site mapatabac.com
- Polémique autour de l'exposition Jacques Tati
- Campagnes de presse incessantes largement reprises dans les médias
- Études et enquêtes orientées sur la contrebande/contrebande

**UTILISATION DE LEADERS D'OPINION**
- Frédéric Mitterrand (ancien Ministre)
- André Santini
- Jean Pol Tassin
- Alain-Gérard ilama
- Et autres leaders apparaissant régulièrement dans les revues pro-tabac (intellectuels, acteurs, etc.)

**CABINETS DE LOBBYING**
- Antenor Public Affairs
- Publicis Consultants
- TL Conseil
- Image Sept
- Lyons Public Affairs
- August & Dobarguy, etc.

**THINK-TANKS**
- Institut Molinari

**INFLUENCER LA DECISION POLITIQUE**

**DIVERTISSEMENTS**
- Avant-premier Woody Allen
- « Midnight in Paris »
- Invitations Stade de France, Roland Garnier, parc des Princes, etc.

**ORGANISATION ECRANS**
- Union pour les Droits des Fumeurs Adultes
- Confrérie de Jean Nicot
- Wato-Foundation

**IMMOTION DANS LES ACTIONS DE PHILANTHROPIE ET DE RESPONSIBILITE SOCIALE DES ENTREPRISES (RSE)**
- Fédération Nationale Solidarité Femmes
- Trinomie 21
- Enfants
- Festival Pablo Canals
- Musée du Louvre – Cartel Louvre Entreprises
- Palais de Tokyo
- Distribution de cendriers sur des plages pour protéger l’environnement, etc.

**CONTACTS DIRECTS**
- Propositions de loi (Illustrations page 7)
- Recrutements de personnels de responsables politiques : Samuel Zouani (ex-membre du cabinet du Ministre de la Santé) par Pierre Morlot
- Accords DGDDI (Direction Générale des Douanes et Droits Indirects) et Imperial Tobacco sur le commerce Illicite
- Club des Parlementaires Amateurs de cigarettes – BAT
- Mission parlementaire sur les conséquences fiscales des ventes Illicites
- Magazines pro-tabac : envoyés aux parlementaires (Loisange, Revue des Tabacs)
- Campagne « Fausse cigarette, vrai risque »
- Colloque « Contrefaçons dangereuses »
- Règlement Sanitas
- Revue des Tabacs (DGDDI) et fabricants, etc.
- Appels téléphoniques et courriers récents

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**ALLIANCES AVEC D'AUTRES INDUSTRIES**
- Union des Fabricants (UNIFAB)
- Comité National Anti-Contrefaçon (CNAC)

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**INTRUSION DANS LA RECHERCHE**
- Institut du Cerveau et de la Moelle Epinière
- Association pour la recherche sur les Nicotinées
- Bioynac
Methodology: Communication, Advocacy and legal action

- Strong example, BAT hospitality program
  Media: TV – Radio – Newspaper

- Other investigations by journalists

- Written questions at Parliament

- Provision in the health legislation (2015–2016)

- Legal action CNCT c/ BAT
Transposition in French law

Obligation of transparency: annual report about expenses spent in lobbying

Penalties
Transposition in French law

Manufacturers, importers and distributors of tobacco products, as well as businesses, professional organizations or associations representing them, reported to the Ministry of Solidarity and Health all expenditures related to activities influence or interest representation, remunerations of personnel employed full time or partly to exercise influence or interest representation activities; purchase of services from consulting companies in influencing or interest representation activities; benefits in kind or in cash, worth more than € 10, provided to:

. Executive;
. Legislative;
. Some persons entrusted with a public service mission;
Disclosure on the Health Ministry’s website

## Disclosures Years 2016 – 2017

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<th>2016</th>
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<td>No lobbying expenses</td>
<td>24</td>
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<td>Number of firms which spent for lobbying</td>
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<td>Amount spent for lobbying in Euro</td>
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<td>692 566</td>
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<td>Salaries</td>
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<td>Amount spent for salaries for people working for lobbying in Euro</td>
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<td>615 307</td>
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<td>Contract with lobbying agencies</td>
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<td>Amount spent for lobbying in agencies in Euro</td>
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<td>In kind advantage</td>
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<td>577 357</td>
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<td>Amount of in kind advantage in Euro</td>
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<tr>
<td>Number of beneficiaries</td>
<td>66</td>
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Follow up: Communication – Request to MPs
Other general provisions:

New independent agency: High Authority for the transparency in public life

⇒ more rules to public authorities and private stakeholders
⇒ collect information on the relations between the representatives of interests and the public authorities
⇒ control the integrity of public officials, see public disclosure of assets and interests
⇒ control reconversion in the private sector at the end of public function or mandate
⇒ incompatibility for a parliamentary mandate with certain functions
Other request imposed to the tobacco industry

- List of all the tobacco products aiming at being sold on the French market (see Code of taxation)
  - Autorisation by both budget and health ministries
  - Similar price in the whole country

- Monthly data on sales

- Transposition of the European Directive on tobacco products
  - Publish information on ingredients to a public agency, ANSES
Conclusion / French experience

• Requiring and managing information from the TI is possible and very useful:

- to adopt and/or protect a TC provision: ex to counter fake news about the impact of plain packaging on sales, to strongly increase tobacco taxation, etc.
- to promote a better coordination between health and other departments and include health objectives in public policies
- to contribute to the «denormalisation» of the tobacco industry

• Limits:
  - The possible concealments concerning disclosure of the TI in lobbying activities and expenses
  - The use of third parties
Sources:

- Code of public health:
  https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=B9643F66EA3B878671ABC3460037E715.tpdila13v_3?idArticle=LEGIARTI000032548837&cidTexte=LEGITEXT000006072665&dateTexte=20200101

- Decree for enforcement:
  https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=B9643F66EA3B878671ABC3460037E715.tpdila13v_3?cidTexte=LEGITEXT000006072665&idArticle=LEGIARTI000034135783&dateTexte=20170621&categorieLien=cid#LEGIARTI000034135783

- Health Ministry website:

- High Authority for the transparency of public life:
  https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000035567974&categorieLien=id
Thank you for your attention

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