

United Kingdom: 2019 Tobacco Industry Interference Index Policy brief

Context

The Framework Convention on Tobacco Control (FCTC)

In 2003, the World Health Organization (WHO) adopted a Framework Convention on Tobacco Control (WHO FCTC), which came into force in 2005. Developed in response to the global tobacco epidemic, it reaffirms every person's right to the highest standard of health and provides a legal framework for international health co-operation. It is a landmark public-health treaty. In total, 181 WHO member states have become 'Parties to the Convention'.

The Framework sets out specific steps for governments to address tobacco use, including:

- adopting tax and price measures to reduce tobacco consumption
- banning tobacco advertising, promotion and sponsorship
- creating smoke-free work and public spaces
- putting prominent health warnings on tobacco packages
- combating illicit trade in tobacco products

Article 5.3 of the FCTC

Often described as the backbone of the Convention, Article 5.3 provides specific guidance to countries on how to protect themselves from the interests of the tobacco industry (hereafter industry). Specifically, it states that: 'In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.'

The Global Tobacco Industry Interference Index

The first *Global Tobacco Industry Interference Index (GTIII)*, published today, assesses how well governments have implemented Article 5.3. It compares industry interference in 33 countries during the period January 2017-December 2018 using a scoring system developed by the Southeast Asia Tobacco Control Alliance (SEATCA). It allocates a score of 0-5 to each of 20 indicators with a low score indicating less interference.

The UK Tobacco Industry Interference Index

The United Kingdom (UK) report, which forms part of the GTIII and is also published today, assesses how the UK fares at tackling industry interference. Out of a potential total score between zero and 100, it scores 26. While not a perfect score, it puts the UK first out of the 33 countries surveyed, indicating relatively low levels of industry interference. Consistent with this is the fact that the UK has successfully implemented and enforced comprehensive tobacco policies and is routinely ranked as having the most robust tobacco-control policies in Europe.¹

Strengths of the UK system include:

- excluding the tobacco industry from the government bodies that set public-health policy and from the FCTC Conference of the Parties delegations
- requiring the government to publish information on meetings with the industry
- guidelines stipulating that Foreign and Commonwealth Office (FCO) officials must not engage on behalf of the industry.

However, there are weaknesses too. These include:

- the above obligations not being systematically implemented
- the lack of legislation prohibiting industry donations to political parties, candidates or campaigns
- the absence of an effective lobbying register
- the ongoing involvement of parliamentarians, informal parliamentary groups and political parties with industry representatives and affiliated organisations.

The key findings of the index are outlined below, followed by recommendations for change, and lessons learned. A full version of the index can be found at <https://exposetobacco.org/resources/>

Key findings

1. Level of industry participation in policy development

The UK government does not accept offers of assistance from the industry, endorse their policies, nor invite industry representatives to attend policy meetings. The UK delegation to the Conference of the Parties excludes industry representatives. However, there are instances of industry representatives, or organisation affiliated to the industry, participating in informal parliamentary groups.

2. Industry-related corporate social responsibility (CSR) activities

Industry activities described as 'socially responsible' are not banned in the UK. However, UK government agencies and their officials do not endorse, support, form partnerships with, or participate in, industry CSR activities. Nonetheless, there are instances of parliamentarians accepting industry hospitality, and of the industry showcasing its products at political party conferences.

3. Benefits to the industry

The UK government does not grant privileges to the industry. However, there are no clear rules mandating the government not to provide preferential treatment to the industry. The major tobacco companies pay very low levels of corporation tax in the UK, although this is not unique to the industry. The UK as part of the European Union (EU) must apply duty-free allowances on tobacco products brought from outside the EU but applies the upper rather than lower limits.

4. Forms of unnecessary interaction

There is no evidence that top-level officials attend industry social functions or that the government accepts assistance from the industry for its tobacco-control activities. However, the register of financial interests shows instances of individual parliamentarians doing this. Despite the FCO guidelines, there are instances of relations between British diplomats and the industry. And while the UK government repeatedly rejects offers of assistance from the industry, there have been cases of limited engagement between local authority departments, individual MPs and the industry on the issue of illicit tobacco.

5. Transparency

In 2017, the UK Department of Health & Social Care (DHSC) issued guidelines for the implementation of Article 5.3, re-committing the government to publish details of meetings with the industry, excluding commercially or operationally sensitive information. However, there is no requirement for the industry and affiliated entities to register with the government. Given the industry's growing use of third parties and the challenges of tracing its links to, and funding of, third parties, this is an important omission.

6. Conflict of interest

General rules regulate political contributions to political parties, candidates and campaigns, and the disclosure of such contributions. However, no legislation specifically prohibits the industry from making political donations. No current government officials or their relatives have been identified as holding positions in the industry.

7. Preventive measures

There is no comprehensive set of rules regulating public officials' interactions with the industry, aside from the FCO code. There is a government procedure for disclosing the records of interaction with the industry but this has only been implemented in part. Some agencies (e.g. Public Health England) publish minutes of meetings with stakeholders linked to the industry; some departments (e.g. HM Revenue and Customs (HMRC)) publish very little detail about meetings; while others (e.g. HM Treasury), reported meetings regularly for a period but then stopped. Tobacco manufacturers collect data on profits, taxes, prices, sales, marketing and research spend and are required to provide some of these data to government. However, the government is only allowed to publish information on ingredients and emissions of tobacco products, not sales and marketing data, which prevents industry activity from being fully transparent to the public. There is no evidence that there is a systematic strategy for raising the awareness of government departments on policies relating to the Article 5.3 guidelines. Finally, there is no specific policy preventing government officials from accepting industry contributions, although such interactions are separately governed by anti-corruption regulations.

Recommendations for the UK

1. Collect and publish industry data on profits, taxes, prices, spending on marketing, research and CSR, and local data on sales of all products as recommended by the backbench All Party Parliamentary Group on Smoking and Health²
2. Implement and embed a government programme to regularly raise and maintain awareness of Article 5.3 and how to comply with it across all government agencies
3. Require the DHSC to develop and disseminate a comprehensive set of rules for public officials, prescribing standards with which public officials should comply in dealings with the industry
4. Require better enforcement of the FCO guidelines
5. Ban industry CSR activities in the UK
6. Create a comprehensive and legally binding lobbying transparency register and make it a legal requirement for industry-affiliated organisations and individuals to register with the government before lobbying
7. Avoid conflicts of interest by prohibiting the industry from making contributions (monetary or otherwise), to government officials. These would include offers of assistance, policy drafts, or study visit invitations. Prohibit public officials from holding positions in, or being seconded to, the industry
8. Audit HMRC to ascertain whether the government provides preferential tax exemption to the industry and remove duty-free concessions for tobacco products.

Lessons learned from the UK

The FCTC emphasises the importance of independent civil society organisations, which are not affiliated to the industry, participating in tobacco control. Research on the UK index has revealed that civil society – both the NGO and research communities in the UK – played a key role in exposing industry misconduct and encouraging and supporting government delivery of its obligations under Article 5.3.³ Such efforts have underpinned the UK's ability to implement tobacco-control policies and include:

- **Raising awareness of industry interference and Article 5.3 obligations**
 - Monitoring and research, and making findings easily accessible via the Tobacco Tactics website⁴
 - Exposure of industry misbehaviour in the news^{5,6,7} and social media
 - Activity in parliament in debates⁸ and parliamentary questions^{9,10}
- **Provision of resources to government at subnational level to support the fulfilment of its FCTC obligations**
 - Local Government Declaration¹¹ (121 signatories to date) and NHS Pledge¹² (72 signatories to date) both endorsed by the Public Health Minister which include a commitment to protecting public-health policy from the commercial and vested interests of the industry
 - The Article 5.3 toolkit for local government organisations¹³
 - Guidance to support Local Authority Trading Standards officials in complying with Article 5.3 in their work to tackle illicit trade.¹⁴

¹ Joossens L, Raw M. The tobacco control scale 2016 in Europe. Belgium, Brussels: Association of European Cancer Leagues, 2017

² <https://ash.org.uk/wp-content/uploads/2019/03/2019-APPG-report.pdf>

³ <http://pubdocs.worldbank.org/en/248361548435105081/WBG-Tobacco-IllicitTrade-UnitedKingdom.pdf>

⁴ https://www.tobaccotactics.org/index.php/Main_Page

⁵ <https://www.theguardian.com/uk-news/2018/sep/09/birmingham-city-council-project-british-american-tobacco-a-disgrace>

⁶ <https://www.theguardian.com/business/2018/jul/19/worlds-biggest-tobacco-firm-under-fire-over-disgraceful-pr-stunt>

⁷ <https://www.ft.com/content/9e142628-6de5-11e1-b98d-00144feab49a>

⁸ <https://hansard.parliament.uk/Commons/2018-07-19/debates/AC4C0223-B31C-4AD8-A594-8CD963C96710/TobaccoControlPlan>

⁹ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-05-01/249959/>

¹⁰ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-07-04/273384/>

¹¹ <http://smokefreeaction.org.uk/declarationsindex-html/>

¹² <http://smokefreeaction.org.uk/smokefree-nhs/nhs-smokefree-pledge/>

¹³ <https://ash.org.uk/local-resources/toolkit-article-5-3-framework-convention-tobacco-control/>

¹⁴ <https://www.illicit-tobacco.co.uk/wp-content/uploads/2019/01/Guidance-for-Trading-Standards-.pdf>

Acknowledgements

Authors Dr Mateusz Zatoński and Professor Anna Gilmore, Tobacco Control Research Group, University of Bath (UK).

Additional input Thanks to Deborah Arnott, Chief Executive of Action on Smoking and Health (ASH) UK for reviewing the content.

The brief is based on the *UK Tobacco Industry Interference Index*, which forms part of the *Global Tobacco Industry Interference Index*, a global survey of how public-health policies are protected from the industry's subversive efforts, and how governments have pushed back against this influence. The *Tobacco Industry Interference Index* was initiated by the South-East Asia Tobacco Control Alliance (SEATCA) as a regional report with support from Bloomberg Philanthropies and is part of a global publication of the Global Center for Good Governance in Tobacco Control (GGTC) at the School of Global Studies in Thammasat University, Thailand.

Funding STOP is a global tobacco industry watchdog whose mission is to expose the tobacco industry strategies and tactics that undermine public health. STOP is funded by Bloomberg Philanthropies and is a partnership between The Global Center for Good Governance in Tobacco Control, The Tobacco Control Research Group at the University of Bath, The Union and Vital Strategies. This brief was prepared for STOP by the Tobacco Control Research Group at the University of Bath.

Design University of Bath

Suggested Citation Mateusz Zatoński and Anna Gilmore. 2019 UK Tobacco Industry Interference Index policy brief. Tobacco Control Research Group, University of Bath. October 2019.

Copyright © Mateusz Zatoński and Anna Gilmore. University of Bath. The Tobacco Control Research Group is happy for reasonable extracts from this brief to be quoted and reproduced for non-commercial use, provided due acknowledgement is made to the source, as follows:

This material is reproduced from Mateusz Zatoński and Anna Gilmore, 2019 UK Tobacco Industry Interference Index policy brief, University of Bath and used under permission of the University of Bath. All rights reserved.

