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TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Policy brief

Acknowledgements

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Key acronyms used in this document

APPG	All-Party Parliamentary Group
CSR	Corporate Social Responsibility
DHSC	Department of Health and Social Care
FCO	Foreign and Commonwealth Office
FCTC	Framework Convention on Tobacco Control
GTI	Global Tobacco Index
HMRC	Her Majesty's Revenue and Customs
PHE	Public Health England
UKTIII	United Kingdom Tobacco Industry Interference Index
WHO	World Health Organization

Summary

This is the second annual report examining how effective the UK government is at preventing the tobacco industry from interfering in policy and legislation. It forms part of the Global Tobacco Industry Interference Index (GTII), which this year includes 57 countries from around the world, up from 33 last year.

This report, covering the period January--December 2019, found that:

- the UK compared favourably to most other countries but there is still room for improvement
- the UK's score deteriorated from 26 to 32
- the UK dropped from first to fourth position overall

This brief explains the background and context to the UK Tobacco Industry Interference Index (UKTIII), outlines its strengths and limitations, and makes key recommendations.

Context

Smoking

According to the World Health Organization (WHO),ⁱ smoking is one of the greatest public health threats with over one billion people smokers in the world. Smoking kills up to one in two smokers. Of the estimated eight million people who die from smoking-related illnesses every year, seven million are smokers. Another 1.2m die from passive smoking. Smoking is also the leading cause of preventable illness and premature death in the UK, accounting for approximately 96,000 deaths every year.ⁱⁱ

The tobacco industry

Big Tobacco is big business. Globally, cigarette retail values in 2018 were worth US\$713.7 billion. In the same year, over 5.3 trillion cigarettes were sold worldwide.ⁱⁱⁱ The total value of cigarette sales in the UK in 2016 was £12.1bn. Two of the four major transnational tobacco companies are headquartered in the UK.^{iv}

The WHO Framework Convention on Tobacco Control (WHO FCTC)

In 2003, the WHO adopted the first global public health treaty.^v It is called the WHO Framework Convention on Tobacco Control (FCTC) and it came into force in 2005. Developed in response to the tobacco epidemic, it reaffirms every person's right to the highest standard of health and provides a legal framework for international health co-operation. In total, there are 182 Parties to the WHO FCTC, including the UK, committed to implementing the obligations of the Treaty, and its guidelines and protocols.

The WHO FCTC 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 WHO FCTC

Often described as the backbone of the WHO FCTC, Article 5.3 provides specific guidance to governments 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.”^{vi}

Background

Global Tobacco Index (GTI)

The GTI,^{vii} first published in 2019, is an annual global assessment of how well governments have implemented Article 5.3. The 2020 GTI compares efforts made by governments to tackle industry interference in policy and legislation in 57 countries 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 better implementation of Article 5.3.

UK Tobacco Industry Interference Index (UKTIII)

The UKTIII uses the GTI’s scoring system to measure how effectively the UK implemented Article 5.3 during the period 1 January–31 December 2019.

Note on the use of ‘government’

In line with the GTI protocol, this document applies the term ‘government’ widely to cover not only the UK government and devolved administrations, and their public officials, but also backbench politicians, and political parties. Although these are not technically part of government, they are included because of the important role they play in policy development and law making in the UK’s parliamentary system. This coordinated approach is necessary in order to allow comparisons between the countries included in the GTI.

Key findings

INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The UK government, and devolved administrations, did not accept offers of assistance from the industry, endorse their policies, nor invite industry representatives to attend policy meetings. The UK delegation to the WHO FCTC Conference of the Parties excluded industry representatives. However, there were instances of industry representatives, or organisations affiliated to the industry, participating in informal parliamentary groups. The industry was allowed to provide responses to public regulatory consultations but was not treated as a stakeholder in health policy.

INDUSTRY CORPORATE SOCIAL RESPONSIBILITY (CSR) ACTIVITIES

Industry activities described as “socially responsible” were not banned in the UK. However, UK government and devolved administrations, agencies and their officials did not endorse, support, form partnerships with, or participate in, industry CSR activities. Nonetheless, the industry continued to promote its CSR activity among parliamentarians using informal parliamentary groups and direct lobbying.

BENEFITS TO THE INDUSTRY

The UK government did not grant exemptions to the industry. However, there were no clear rules mandating the government not to provide preferential treatment to the industry. The major tobacco companies paid very low levels of corporation tax in the UK, which was due to generic rules on corporation tax and was not specific to the tobacco industry. The UK, as part of its obligations to the European Union (EU), was required to apply duty-free allowances on tobacco products brought from outside the EU but applied the most generous limit permitted by the EU for such allowances.

UNNECESSARY INTERACTION

There was no evidence that top-level UK officials attended industry social functions, but several instances have been identified for individual backbench parliamentarians in England and the devolved administrations, and for political parties. In addition, the Westminster parliamentary data on functions and hospitality covered only the first half of 2019. There was no evidence that the government or devolved administrations accepted assistance from the industry for their tobacco-control activities, but there were cases of limited engagement of the industry with the local authorities.

TRANSPARENCY

In the past, the Department of Health and Social Care (DHSC) adopted guidelines for the implementation of Article 5.3, requiring organisations it engaged with to disclose any links with the industry. However, there was no general 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.

CONFLICT OF INTEREST

General rules regulated political contributions to political parties, candidates and campaigns, and the disclosure of such contributions worth over £7,500. However, no legislation specifically prohibited the tobacco industry from making political donations. No government officials held positions in the industry, but several instances of past involvement, direct and indirect, have been identified, including for senior government officials during the period in question.

PREVENTIVE MEASURES

There was no comprehensive set of rules regulating public officials' interactions with the industry, aside from the Foreign and Commonwealth Office (FCO) code. There was a government procedure for disclosing the records of interaction with the industry, but this has been implemented only in part.

Some agencies, e.g. Public Health England (PHE) published minutes of meetings with stakeholders linked to the industry and the Scottish government required a declaration of interests at its Ministerial Group on Tobacco. Some departments, e.g. HM Revenue and Customs (HMRC), published very little detail about meetings, while others, e.g. HM Treasury, reported meetings regularly for a period but then stopped.

Tobacco manufacturers collected data on profits, taxes, prices, sales, marketing and research spend and were required to provide some of these data to government. However, taxpayer confidentiality laws have been applied to prohibit the publication of data provided to HMRC and the government was allowed to publish information only on the ingredients in, and emissions from, tobacco products. The exclusion of marketing data from publication prevented industry activity from being fully transparent to the public. There was no evidence that there was a systematic strategy for raising the awareness of government departments or devolved administrations on policies relating to the Article 5.3 guidelines.

Finally, there was no specific policy preventing government officials from accepting industry contributions (or persons moving from civil service posts to jobs in the industry, or vice versa), although such interactions were separately governed by anti-corruption regulations.

How UKTIII 2020 compares with UKTIII 2019

The UK score has deteriorated from 26 in the 2019 edition (covering the period January 2017–December 2018) to 32 in the 2020 edition (covering January–December 2019) of the UKTIII. The UK has seen, in particular, greater industry activity in trying to influence policy development, suggestions of political willingness to extend existing privileges to the industry in the future, and more high-profile instances of conflict of interest among politicians.

Strengths of UKTIII

The UKTIII forms part of the GTI – the first global index measuring governments' response to industry interference in policy. It provides a “shadow report” on the implementation of WHO FCTC Article 5.3 in the UK and can help policy makers identify gaps in protecting public health policies from commercial and other vested interests of the industry.

Limitations of UKTIII

The UKTIII is based on publicly available information, supplemented by evidence emerging from investigative reporting, research on the industry conducted by the Tobacco Control Research Group at the University of Bath, and monitoring data collected by Tobacco Tactics. It is likely that certain covert instances of industry policy interference in the UK have not been exposed and are thus missing from this report, as will most likely be the case for other countries included in the GTI too. Further, the countries included in the GTI are characterised by a range of different political systems and structures of the policy process. This means that international comparisons between such varied countries are difficult and require compromises in the use of certain terms and definitions (see “Note on the use of ‘government’” above).

Recommendations to government

1. Require, 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 (APPG) on Smoking and Health and ensure such data is published in usable format.
2. Ensure comprehensive procedures for publishing details of all meetings with the industry, and vested interests (groups and individuals funded by the industry), are fully implemented across all government departments.
3. Implement and embed central and devolved government programmes to regularly raise and maintain awareness of Article 5.3 and how to comply with it across the whole of government.
4. Require the DHSC to develop and disseminate, in partnership with devolved administrations, a comprehensive set of rules for public officials, prescribing standards with which public officials should comply in dealings with the industry and vested interests.
5. Ban industry and vested interests' CSR activities in the UK.
6. Create a UK-wide transparency register of lobbying and policy influence, and ensure it is publicly accessible, comprehensive and legally binding. Furthermore, make it a legal requirement for organisations involved in policy discussions to register and disclose their funding before lobbying. Ensure that organisations failing to register or fully declare funding are excluded from policy discussions.
7. Avoid conflicts of interest by prohibiting the industry and vested interests from making contributions (monetary or otherwise), to political parties and government officials at all levels. The latter would include offers of assistance, policy drafts, study visit invitations, hospitality and funding. Prohibit public officials from holding positions in, or being seconded to, the industry, or taking up posts with the industry within a defined number of years after leaving public positions (and vice versa).
8. Audit HMRC to ascertain whether the government provides preferential tax exemption to the industry and remove duty-free concessions for tobacco products. Exempt the industry from being able to reclaim against corporate tax for marketing (including CSR) and promotions.
9. Ensure that bilateral trade agreements developed as a result of Brexit are compliant with the UK's obligations as a Party to the WHO FCTC and Illicit Trade Protocol, and contain exemptions allowing for the protection of public health.

Notes

ⁱ World Health Organization (2020), **Tobacco**, WHO website; <https://www.who.int/news-room/fact-sheets/detail/tobacco>

ⁱⁱ Action on Smoking and Health (2019), **Smoking and poverty**, ASH website; <https://ash.org.uk/wp-content/uploads/2019/10/191016-Smoking-and-Poverty-2019-FINAL.pdf>

ⁱⁱⁱ Campaign for Tobacco Free Kids (2019), **The Global Cigarette Industry**, CTFK website; https://www.tobaccofreekids.org/assets/global/pdfs/en/Global_Cigarette_Industry_pdf.pdf

^{iv} Action on Smoking and Health (2017), **The UK Tobacco Industry**, ASH website; <https://ash.org.uk/wp-content/uploads/2019/10/UK-Tobacco-Industry.pdf>

^v World Health Organization (2020), **Framework Convention on Tobacco Control**, WHO website; <https://www.who.int/fctc/en/>

^{vi} World Health Organization (2020), **Article 5.3 of the WHO Framework Convention on Tobacco Control**, WHO website; https://www.who.int/tobacco/wntd/2012/article_5_3_fctc/en/

^{vii} Global Tobacco Index (2020), **The Global Tobacco Industry Interference Index**, GTI website; <https://globaltobaccoindex.org/>

