



## BIG TOBACCO: EXPOSING ITS DEADLY TACTICS

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Tobacco use kills about five million people worldwide each year and is projected to kill one billion people by the end of this century. Most of these deaths will occur in low- and middle-income countries.<sup>1</sup> Fortunately, the ways to reduce tobacco use and tobacco-caused death are clear:

- Reduce demand through price increases such as tobacco excise tax increases;
- Protect individuals from exposure to tobacco smoke;
- Implement packaging and labeling laws that prevent false, misleading, or deceptive information and mandate the inclusion of graphic health warnings; and
- Ban tobacco advertising, promotion, and sponsorship.

Tobacco companies recognize the impact of these strong tobacco control policies; policies that are promoted by the World Health Organization Framework Convention on Tobacco Control (FCTC). Globally, tobacco companies spend billions of dollars working to defeat such measures in order to maintain their corporate profits.

Parties to the FCTC are obligated to protect their public health policies from commercial and other vested interests of the tobacco industry and to promote public access to a wide range of information on the tobacco industry.<sup>2</sup> Advocates can assist Parties in meeting their obligations under the FCTC by increasing their understanding of how the tobacco industry attempts to undermine strong, effective tobacco control policies.

Advocates also need to anticipate tobacco industry strategies and tactics and include plans to counter them in their policy campaigns. These preparations will also enhance advocates' ability to be on the alert for emerging tobacco industry strategies in order to act swiftly to expose and counter tobacco industry actions. Informing supportive policy makers and the media of known tobacco industry strategies also will serve to establish or enhance advocates as credible sources of knowledge and prepare key policy makers for the tobacco industry's persuasive efforts.

### **Common Tobacco Industry Strategies to Avoid Effective Tobacco Control Policies**

- **Directly influences draft legislation by submitting public or private comments and offering “technical assistance” to governments.** Governments should not consider tobacco industry drafts or legislative comments. There is an inherent conflict of interest between the government's duty to protect the health and welfare of its citizens and the tobacco industry's goal of creating weak legislation in order to sustain profits. The tobacco industry's goal when providing input to draft legislation is to weaken or to create loopholes in the law.<sup>3 4</sup>
- **Claims that the tobacco industry should be consulted when developing tobacco control policies to ensure effective regulation.** Tobacco companies

argue that they should hold a seat at the policymaking table because their businesses greatly contribute to a country's economy in terms of tax revenues and employment. They also use scare tactics and messages asserting that excluding the tobacco industry from the policy making process will put the tobacco business in the hands of criminals. Finally, tobacco companies argue that implementation problems can be avoided when policymakers consult with the industry, claiming that only the industry can fully understand the implications of tobacco regulatory policy. FCTC Article 5.3 and its Guidelines make clear that Parties should not endorse any offer of assistance or proposed tobacco control policies drafted by or in collaboration with the tobacco industry.

- **Creates, influences and then mobilizes allies to act on the tobacco industry's behalf.** The tobacco industry creates and uses many groups to serve as their messengers when it lacks the credibility among policymakers. These groups include: farmers, smokers' rights groups, retailers, advertising agencies, business alliance groups, hospitality associations and members, grass roots, and anti-tax groups.<sup>5</sup> Advocates should alert the public and policy makers to the true nature of these front groups to decrease their credibility as a talking head for the tobacco industry.
- **Promotes ineffective voluntary regulation as a substitute for an enforceable law.** Tobacco companies develop and promote measures that do not protect against the harms of tobacco. These measures include "youth smoking prevention" programs, "accommodation" measures that separate smokers and non-smokers or promote ineffective ventilation technologies, retailer education programs aimed at reducing sale to minors, and voluntary advertising and marketing codes of conduct.<sup>6</sup> The tobacco industry argues that when these measures are in place, there is no need for further enforceable regulation. The reality is that tobacco companies have proven that they exploit non-enforceable measures for their own benefit – namely to delay further regulatory restrictions such as 100% smoke-free laws or comprehensive advertising bans. Advocates should push for only those tobacco control measures that hold these companies accountable under the force of law.
- **Falsely claims support for "reasonable" regulation in order to appear like a credible stakeholder in a regulatory measure.** Don't be fooled. Tobacco industry public relations firms advised companies to adopt a "reasonable regulation" strategy many years ago.<sup>7</sup> The reality is that the tobacco industry has made very narrow concessions on global tobacco regulation. For example, most major tobacco companies now support smoke-free public places where there are young children present or health warnings that have been shown to have a minimal impact on consumers. If the tobacco industry supports a regulatory measure, the measure likely will not provide the most effective protection against tobacco consumption and tobacco smoke exposure.
- **Introduces a weak bill when a strong bill is gaining support.** If a strong bill appears to be headed for approval, the tobacco industry will use its relationship

with a supportive policy maker to introduce a weaker version of a bill. The weaker bill is often presented as reasonable alternative to draconian measures.<sup>8</sup> Advocates must be alert to and engaged with the policy making process to be ready to respond.

- **Misleadingly claims support for global tobacco regulation that aligns with the FCTC.** Internal tobacco industry documents reveal that tobacco companies fought hard to undermine the development of the FCTC.<sup>9 10</sup> Now, the major transnational tobacco companies (TTCs) misleadingly claim that they support the majority of policies contained in the FCTC and therefore should be treated as legitimate and credible partners in addressing the tobacco epidemic.<sup>11 12</sup>

Simply put, arguing that tobacco companies are credible stakeholders in FCTC implementation is nothing more than propaganda. On corporate websites, the major TTCs make broad statements of support for the FCTC while simultaneously promoting non-FCTC compliant measures such as including provisions for designated smoking rooms or partial advertising restrictions. These provisions, diluted in misleading messages of support, are simply loopholes that the tobacco industry will use to thwart the strong, comprehensive, and effective measures contained within the FCTC and the FCTC Guidelines.

- **Where its efforts to weaken legislation fail, it threatens or carries out legal challenges against tobacco control laws.** As tobacco control advocates have experienced success with national and sub-national tobacco control legislation, the tobacco industry mounts legal challenges against laws that protect people from the harm of tobacco use or tobacco smoke exposure. Either directly, or working through trade associations, labor organizations, hospitality groups and others, the tobacco industry has supported litigation that challenges the constitutionality of laws or regulations or the authority of government entities to impose rules. It also uses international trade agreements and bodies to pressure governments to adopt policies that protect tobacco industry interests.<sup>5</sup>
- **Uses Regulatory Impact Assessments or Better Regulation Principles.** Tobacco companies influence the development of governments' Regulatory Impact Assessment policies or "Better Regulation" principles through consultations and submissions so they can ensure a favorable business regulatory environment.<sup>13</sup> They then use these broad law-making policies to legally challenge legislation aimed at regulating tobacco products, claiming that regulations do not comply with the governments' own Better Regulation principles – principles that they had a hand in developing.<sup>14</sup> Advocates should demand that the tobacco industry be excluded from participation in the development of these principles. Also, advocates should be alert to the use of these principles as a way that the tobacco industry may attempt to weaken or challenge strong tobacco control legislation.

- **Engages in “corporate social responsibility” programs and contributions to bolster public image.** In order for tobacco companies to effectively interfere with public health policies, they often create a public image that presents them as credible and responsible stakeholders in the regulatory development process.<sup>5</sup> In doing so, policy makers may be more likely to support the tobacco industry’s view of tobacco regulation. Tobacco companies promote this image through financial or in-kind contributions to programs with social value such as those related to education, the environment, disaster relief, and other community initiatives. FCTC Article 5.3 Guidelines provide that governments should only interact with the tobacco industry when doing so is strictly necessary to enable them to effectively regulate the industry and its products. Further, so-called “corporate social responsibility” contributions are a form of tobacco advertising under the FCTC. Advocates should call for their prohibition as part of a comprehensive tobacco APS ban.

The tobacco industry also uses very specific tactics to weaken or defeat tobacco control policies and uses them in virtually every country where it operates. Common tactics used by the tobacco industry against four tobacco control policy initiatives are summarized below. Please refer to The Campaign for Tobacco-Free Kids “Countering Industry Arguments” factsheets for suggestions on effective messages to counter these and other arguments put forth by the tobacco industry: [http://tobaccofreecenter.org/fact\\_sheets](http://tobaccofreecenter.org/fact_sheets)

For more info about the Article 5.3 guidelines, go to:

[http://www.who.int/fctc/guidelines/article\\_5\\_3/en/index.html](http://www.who.int/fctc/guidelines/article_5_3/en/index.html)

Also, visit the website of Corporate Accountability International at:

[http://www.stopcorporateabuse.org/sites/default/files/GTTAG\\_English.pdf](http://www.stopcorporateabuse.org/sites/default/files/GTTAG_English.pdf)

For more information about the tobacco industry and examples of actions taken by advocates to expose and discredit the strategies they use to promote the use of their deadly products, go to: [http://tobaccofreecenter.org/industry\\_watch](http://tobaccofreecenter.org/industry_watch)

## Tobacco Industry Tactics to Interfere with Comprehensive Tobacco Control Legislation

**Smoke-Free Policies:** Parties to FCTC are required to create 100% smoke-free public places, workplaces and public transport. Parties should not accommodate tobacco industry interests in maintaining the public acceptability of smoking through smoking rooms, separate seating for smokers and nonsmokers, and designated smoking areas. FCTC Article 8 and its Guidelines are clear that the only effective measure to protect against tobacco smoke is 100% smoke free environments.

- Deny that exposure to tobacco smoke causes disease and death or argue that its impact is not as severe as research shows.<sup>15</sup>
- Promote “reasonable regulation” in which smoking in public places applies only to venues where children are present and/or business owners decide who is protected against secondhand smoke.<sup>15</sup>
- Promote economic impact studies funded by the tobacco industry that allege revenue losses for hospitality businesses due to a smoke-free law.<sup>15</sup>
- Promote ineffective “accommodation” measures that do not offer universal protection against exposure to secondhand smoke such as ventilation options.<sup>16</sup>
- Change product design (e.g., shorter, wider cigarettes for use during smoking breaks) and type (dissolvable tobacco products) to circumvent decreases in tobacco use due to smoke-free environments.<sup>17</sup>
- Challenge the legality of smoke-free laws.<sup>18</sup>

**Packaging and Labeling of Tobacco Products:** Within 3 years after the FCTC’s entry into force in their countries, Parties to the FCTC are required to implement health warnings and messages on the packaging and labeling of all tobacco products and prohibit packaging and labeling that promotes a tobacco product by means that are false, misleading, deceptive, or likely to create an erroneous impression about its characteristics, health effects, hazards, or emissions. FCTC Article 11 provides that warnings and messages should occupy at least 50% or more, but not less than 30%, of each principal display area. For most effective health warnings and messages, the FCTC Article 11 Guidelines provide that Parties should aim to cover as much as the principal display areas as possible.

- Lobby governments to oppose large, full color images of health warnings arguing that they are unable to comply with deadlines and costs of printing requirements.<sup>19</sup>
- Use creative means of communicating false information to consumers
  - Print tar yields on the front of the pack
  - Use the English word “lights” instead of in-country primary language
  - Descriptors and color coding to imply tar levels
  - Special packaging that may glow under UV lights, change colors, or tactile sensory packaging.
- Use attention-grabbing (e.g., holograms, sensory gimmicks, tear tape with promotions) and differently shaped packaging to dilute the effect of large, full color images of health warnings or messages.
- Deliberately promote ‘low-tar’ cigarettes knowing that they offer false reassurance to consumers without health benefits.<sup>20</sup>
- Launch misinformation campaigns aimed at retailers and the public to oppose standardized and plain packaging of their products.<sup>21</sup>

**Tobacco Advertising, Promotion, and Sponsorship (APS):** FCTC Article 13 requires Parties to ban all domestic and cross-border tobacco advertising, promotion, and sponsorship, in accordance with their constitutions and constitutional principles, within 5 years after the treaty's entry into force in their countries. A Party not in a position to undertake a comprehensive ban due to its constitution or constitutional principles must apply restrictions that are as comprehensive as legally possible on all tobacco advertising, promotion, and sponsorship.

- Carry out misinformation campaigns through retailers designed to scare regulators into believing that APS bans, such as those at the point-of-sale, will fuel the illicit tobacco trade market and result in huge revenue losses to the government.<sup>22</sup>
- Use the tobacco products' packaging and labeling as an advertising tool when tobacco APS is increasingly restricted (e.g., innovative promotions on the pack via inserts, tear tape and other, means of communications via the pack).
- Argue that advertising restrictions violates the right to economic freedom, right to property, right to non-discrimination, and consumer rights.
- Engage in marketing tactics that violate APS bans or circumvent partial APS ban.<sup>23</sup>
- Assert that their voluntary marketing codes are all that is needed to protect children from tobacco APS.<sup>24</sup>
- Engage in "corporate social responsibility" programs by making contributions to government and private entities to bolster public image and, at the same time, advertise their products or corporate logo through branded sponsorships.
- Claim that advertising restrictions results in a substantial loss of advertising revenues.<sup>25</sup>

**Taxation and Price:** Parties to the FCTC recognize that price and tax measures are an effective means of reducing tobacco consumption – particularly in young people. FCTC Article 6 calls on Parties to adopt and maintain tax and price policies that will contribute to the health objectives aimed at reducing tobacco consumption and to prohibit (or restrict) sales and/or importation of tax and duty-free tobacco products.

- Directly lobby for favorable tax structure arguing that an increase in taxes will harm the economy and increase illicit trade.<sup>26</sup>
- Increase the size of the cigarettes (introduce king size or super king size) to avoid paying higher taxes on the total amount of tobacco (when tax is per unit of cigarettes).<sup>28</sup>
- Increase prices in markets where sales volume is shrinking.<sup>27</sup>
- Launch economy brands and smaller pack sizes.<sup>27</sup>
- Promote illicit tobacco trade (smuggling) to undermine tax policies and trade restrictions.<sup>26</sup>
- Use organizations that they financially support to promote their positions on tax policies.<sup>29</sup>

### **Bottom Line**

Tobacco companies have shown that they will use all means, legal and illegal, to increase the use of their deadly products. Tobacco industry strategies and tactics to undermine strong and effective tobacco control regulation must be exposed and countered. If they are not, the tobacco industry's unethical business practices will continue unfettered, which will result in the ongoing and rapid growth of the tobacco industry and alarming increases in tobacco-caused death and disease worldwide.

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