



# THE ATTEMPT OF THE TOBACCO INDUSTRY- FUNDED ENTITY TO PARTNER WITH THE WORLD HEALTH ORGANIZATION (WHO)

## I. BACKGROUND

On January 24, 2019, the Foundation for a Smoke-Free World (FSFW) published and advertised an open letter to the World Health Organization Executive Board (WHO EB) enjoining it to “consider how best to work with the Foundation to facilitate a rapid reduction in the use of lethal cigarettes,”<sup>1</sup> and it framed its support in the context of attaining the Sustainable Development Goals (SDGs). The letter also calls for a review of the WHO’s “initial statement recommending that researchers and governments should not collaborate with FSFW,”<sup>2</sup> and cites the Director General’s (DG) Report which points to challenges in having a consistent definition of how broadly ‘furthering the interests’ should be interpreted<sup>3</sup> as a basis for reviewing this statement.

The aforesaid statement refers to WHO’s 2017 [statement](#) urging all Parties to the Framework Convention on Tobacco Control (FCTC), organizations, and individuals not to partner with FSFW because of its sponsor’s “known history of funding research to advance its own vested interest.”<sup>4 5</sup>

*“This decades-long history means that research and advocacy funded by tobacco companies and their front groups cannot be accepted at face value. When it comes to the Foundation for a Smoke-Free World, there are a number of clear conflicts of interest involved with a tobacco company funding a purported health foundation, particularly if it promotes sale of tobacco and other products found in that company’s brand portfolio. WHO will not partner with the Foundation. Governments should not partner with the Foundation and the public health community should follow this lead.”<sup>6</sup>*

FSFW is an entity funded by a tobacco multinational company, Philip Morris International (PMI),<sup>7</sup> which is also aggressively marketing a heated tobacco product called [IQOS](#) to show its “commitment to a smoke-free world.”

The EB’s main function is to implement the decisions and policies of the World Health Assembly (WHA), the governing body of the WHO, advise, and generally to facilitate its work. The WHA has adopted the Framework for the Engagement of Non-State Actors (FENSA) which provides that: “WHO does not engage with the tobacco industry or non-State actors that work to further the interests of the tobacco industry.”

The Preamble of the WHO FCTC recognized the Parties “need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts.” Further, Article 5.3 of the Convention requires 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.” Guidelines for the Implementation of Article 5.3 state that “Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.”<sup>8</sup> The tobacco industry is defined under the Guidelines as including “those that further its interests.”

## II. POINTS THAT COULD MISLEAD THE EB/ PUBLIC

**A.** The published FSFW letter contains information that could mislead the EB and the public considering that it was widely advertised in different countries.

### **1. Offering partnerships with WHO in the context of the SDGs**

*FSFW stated that: “SDG goals cannot be met without concerted action to end adult smoking. FSFW is ready to accelerate work with WHO to achieve this.”*

The offer to partner with WHO gives an impression that there is room for WHO or its governing bodies to consider partnerships with an organization funded by the tobacco industry despite WHO’s clear statement that it will not partner with FSFW<sup>9</sup> and the recently adopted Framework on Engagement with Non-State Actors which provides that WHO “does not engage with the tobacco industry or non-State actors that work to further the interests of the tobacco industry.”<sup>10</sup> In addition to WHO, the United Nations General Assembly (UNGA) has also, in the context of “whole-of-government approaches” in preventing non-communicable diseases (NCDs), isolated the tobacco industry by recognizing “the fundamental conflict of interest between the tobacco industry and public health.”

### **2. Claiming independence without addressing challenges made on it**

*FSFW claims “independence” by virtue of its rigid by laws, certificate of incorporation, and funding agreement with PMI.<sup>11</sup>*

Analysts have challenged in detail its claim relating to its independence, going into the nature of its operations and its agreement with PMI.<sup>12</sup> FSFW does not address these arguments. At the same time, most of its actions are consistent with the public relations strategy and actions of the tobacco industry to work “towards a smoke-free world.”<sup>13</sup>

### **3. Suggesting that the issue raised by the DG on interpreting “(those) furthering the interests (of the tobacco industry)” should pave the way for WHO to review its initial statement on warning against partnering with FSFW<sup>14</sup>**

*FSFW cites the DG’s report that “it has proven difficult to come up with a consistent definition of how broadly ‘furthering the interests’ should be interpreted.” And that this difficulty in interpretation “should pave the way for the WHO to review its initial statement recommending that researchers and governments should not collaborate with us.”*

The statements of WHO and the FCTC Secretariat in 2017 around the launch of FSFW attest to the fact that there was never any difficulty in characterizing organizations funded by the tobacco industry, such as the FSFW, as part of “those furthering tobacco industry interests.” Receiving funding from and/or affiliation with the tobacco industry is a clear criteria used by the WHO FCTC Conference of Parties (COP) to determine conflict of interest and eligibility to become observers to the WHO FCTC proceedings. The COP is the WHO FCTC’s governing body which comprises of representatives from over 180 parties to the treaty. For this reason, it has also rejected the application for observer status of The International Network of Nicotine Consumer Organizations (INNCO) which FSFW supported for the development of a global harm reduction review.”<sup>15</sup> In 2018, the COP encouraged the FCTC Secretariat and WHO’s work in raising “awareness about the dangers of and the need to reject partnerships with tobacco industry-funded organizations and initiatives.”

The COP’s past decisions can provide sufficient guidance to remove any ambiguity in interpreting “those furthering tobacco industry interests.” Accommodating new interpretations without expert advice could inevitably open up loopholes that invite tobacco industry-funded entities to become affiliated with WHO.

#### **4. Redefining the FCTC by including “harm reduction” as a tobacco control treaty measure<sup>16</sup>**

*The FSFW letter claims that: “Harm reduction is part of the FCTC definition of tobacco control. We must do more to raise awareness of the viability of harm reduction.”*

The latest WHO FCTC documents as well as the WHO global strategies and action plan remain consistent that the focus of tobacco control strategy, especially in low- and middle-income countries (LMICs) are the “best buys” including tobacco taxes, regulation of product packaging, and advertising. “Harm reduction” approach is not one of the evidence-based measures that have been proven to work in LMICs settings.

#### **5. Ignoring the impact of addictive devices on the youth<sup>17</sup>**

*FSFW claims to focus on areas where FCTC remains weak which, among others, is “ending smoking in adults.” It also offers to work with WHO to end “adult smoking” in the context of attaining the SDGs.<sup>18</sup>*

The letter fails to recognize a constant concern for developing countries is youth smoking. Independent research relating to devices that purport to be “alternatives to smoking” often point to the likelihood of recreational use especially among the youth.<sup>19</sup> <sup>20</sup> The silence of FSFW on the matter of youth smoking is glaring in light of reports that show how its funder, PMI, continues to market cigarettes to children especially in developing nations.<sup>21</sup>

#### **6. Implying harm reduction products that worked in high-income countries could work in low-income countries to displace traditional cigarettes<sup>22</sup>**

*FSFW claims that in many countries, including the UK, Sweden, and Japan, such (harm reduction) products are displacing combustible cigarettes at a rapid rate and that these experiences could well be replicated in China, Indonesia, and Brazil, affecting hundreds of millions of smokers.*

This is the same selling point for “heated tobacco products” (HTP) made by PMI in its press statements. In responses to the press, PMI admits that there are many factors that affect displacement or switching from regular cigarettes to HTP. Given the price range of HTPs, income is one of these factors. Without evidence to the contrary, the fact that HTP has induced switching in high-income countries, does not point to the same

outcome in lower-income countries where the majority of the smoking population are poor.

### **III. THE NEED TO PREVENT TOBACCO INDUSTRY INTERFERENCE**

The FSFW boldness in attempting to partner with the WHO calls for the doubling of efforts to prevent tobacco industry interference not only in WHO but in all UN agencies involved in attaining SDGs. The WHO has clear policies relating to the tobacco industry and is poised to lead the way.

#### **A. IMPLEMENT WHO FCTC ARTICLE 5.3 and the UN MODEL POLICY ON PREVENTING TOBACCO INDUSTRY INTERFERENCE**

The majority of the countries in the world are parties to the global tobacco control treaty. Article 5.3 of the treaty obligates Parties to protect tobacco control policies from the commercial and vested interests of the tobacco industry, in accordance with national law. Article 5.3 guidelines provide measures that governments can take to prevent tobacco industry interference. These measures are reflected in the Model policy for agencies of the United Nations system on preventing tobacco industry interference, a policy which Member States of the United Nations Economic and Social Council (ECOSOC) (E/2017/L.21), urged UN agencies to implement.

Specific measures in the UN Model Policy require the UN agencies to:

- "Limit interactions and avoid any real or perceived partnership with the tobacco industry."
- "Carry out any strictly necessary interaction with the tobacco industry in such a way as to avoid the creation of any real, perceived or potential conflicts of interest resulting from or on account of such interaction and ensure the transparency of those interactions that occur through, for example, making the records of such interactions available to the public."
- "Reject partnerships, joint programs, non-binding or non-enforceable agreements and any other voluntary arrangements with the tobacco industry."<sup>23</sup>

#### **B. RAISE AWARENESS ABOUT CONFLICTS OF INTEREST**

The private sector's practice of funding a third party vessel to influence public health policies in WHO is tantamount to circumventing policies designed to protect WHO's integrity and ability to develop policies in the public interest. Conflicted corporations should not be allowed to simply set up grant-making agencies in order to influence public health policy as this creates further obstacles to effectively addressing the commercial determinants to health.

In its letter, FSFW even announced that it is establishing a global network of researchers through its grant mechanism.<sup>24</sup> If nothing is done, many more institutions would be receiving tobacco industry money, eventually, establishing a web of allies to further tobacco industry interests in the development sector.

When the FSFW was established in 2017, public health organizations denounced the public relations strategy of PMI and and shunned FSFW.<sup>25</sup> The WHO FCTC Secretariat regarded FSFW as "a clear attempt to breach the WHO FCTC by interfering in public policy...aimed at damaging the treaty's implementation, particularly through the

Foundation's contentious research programmes." Such efforts to raise awareness about the tobacco industry's public relations strategy and the potential dangers of receiving funding from FSFW must be scaled up in order to counter the tactics of the tobacco industry.

## REFERENCES:

- <sup>1</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).
- <sup>2</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).
- <sup>3</sup> WHO Executive Board (23 November 2018). Engagement with non-State actors: Report by the Director-General. Provisional agenda item 7.3, 144<sup>th</sup> session. EB144/36. Retrieved from [http://apps.who.int/gb/ebwha/pdf\\_files/EB144/B144\\_36-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/EB144/B144_36-en.pdf) (accessed on 25 January 2019).
- <sup>4</sup> Excerpt of **WHO statement**: "When it comes to the Foundation for a Smoke-Free World, there are a number of clear conflicts of interest involved with a tobacco company funding a purported health foundation, particularly if it promotes sale of tobacco and other products found in that company's brand portfolio. WHO will not partner with the Foundation. Governments should not partner with the Foundation and the public health community should follow this lead."
- <sup>5</sup> The **FCTC Secretariat** regards FSFW as "a clear attempt to breach the WHO FCTC by interfering in public policy...aimed at damaging the treaty's implementation, particularly through the Foundation's contentious research programmes."
- <sup>6</sup> WHO Statement on Philip Morris funded Foundation for a Smoke-Free World, 28 September 2017. Retrieved from <https://www.who.int/news-room/detail/28-09-2017-who-statement-on-philip-morris-funded-foundation-for-a-smoke-free-world> (accessed on 25 January 2019).
- <sup>7</sup> In September 2017, PMI pledged a \$1 billion grant to FSFW, an organization that will provide grants for "medical, agricultural, and scientific research to end smoking and its health effects and to address the impact of reduced worldwide demand for tobacco." FSFW's patron, PMI, is one of the biggest transnational tobacco companies manufacturing and selling the world famous Marlboro brand and is currently introducing into the market ENDS, including e-cigarettes and IQOS (heat not burn) product. FSFW's research grants will include research into the new products of PMI. Despite swimming in tobacco money, FSFW describes itself as "an independent, private foundation formed and operated free from the control or influence of any third party." Furthermore, FSFW has been reported to be working with public relations firms and law firms linked to the tobacco industry.
- <sup>8</sup> WHO FCTC. Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry. Retrieved from [https://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](https://www.who.int/fctc/guidelines/article_5_3.pdf) (accessed on 25 January 2019).
- <sup>9</sup> WHO Statement on Philip Morris funded Foundation for a Smoke-Free World, 28 September 2017. Retrieved from <https://www.who.int/news-room/detail/28-09-2017-who-statement-on-philip-morris-funded-foundation-for-a-smoke-free-world> (accessed on 25 January 2019).
- <sup>10</sup> WHO (2018). Handbook for non-state actors on engagement with WHO. Geneva, Switzerland: World Health Organization. Retrieved from <https://www.who.int/about/collaborations/non-state-actors/Handbook-for-non-State-actors-on-engagement-with-WHO.pdf> (accessed on 25 January 2019).
- <sup>11</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).  
*"The FSFW is an independent, US-based foundation. We are registered as a US 501(c)(3) not-for-profit organization. We have established rigid bylaws, a certificate of incorporation, and a funding agreement that ensures our independence from our core funder, Philip Morris International Inc. (PMI)."*
- <sup>12</sup> McCabe Center for Law and Cancer (2018). The new Philip Morris-funded Foundation for a Smoke-Free World: independent or not? Retrieved from <https://web.archive.org/web/20180301174248/http://untobaccocontrol.org/kh/legal-challenges/new-philip-morris-funded-foundation-smoke-free-world-independent-not/> (accessed on 25 January 2019).
- <sup>13</sup> Philip Morris International. Designing a Smoke-Free Future: How long will PMI be in the cigarette business? Retrieved from <https://www.pmi.com/who-we-are/designing-a-smoke-free-future> (accessed on 25 January 2019).
- <sup>14</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).  
*"Recent acknowledgment by the WHO's Executive Board Provisional Agenda Item 7.3, concerning non-State actors and the tobacco industry, that '... it has proven difficult to come up with a consistent definition of how broadly 'furthering the interests' should be interpreted.' This, we firmly believe, should pave the way for the WHO to review its initial statement recommending that researchers and governments should not collaborate with us."*
- <sup>15</sup> WHO FCTC (06 October 2018). Decision: Applications for the status of observer to the Conference of the Parties. FCTC/COP8(1). Retrieved from [https://www.who.int/fctc/cop/sessions/cop8/FCTC\\_COP8\(1\).pdf](https://www.who.int/fctc/cop/sessions/cop8/FCTC_COP8(1).pdf) (accessed on 25 January 2019).  
*"...taking into account the 17<sup>th</sup> and 18<sup>th</sup> preambular paragraphs as well as Article 5.3 of the Convention."*
- <sup>16</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).  
*"Harm reduction is part of the FCTC definition of tobacco control: We must do more to raise awareness of the viability of harm reduction."*
- <sup>17</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).  
*"...we focus where the FCTC by its own acknowledgment remains weak: on ending smoking in adults, on preparing poor farmers for future alternative livelihoods, and on strengthening scientific capacity in developing countries."*
- <sup>18</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).  
*"Ending adult smoking is key to the attainment of several Sustainable Development Goals: During the Executive Board meeting, progress on the Sustainable Development Goals (SDGs) related to noncommunicable diseases will be reviewed. These goals cannot be met without concerted action to end adult smoking. FSFW is ready to accelerate work with WHO to achieve this."*

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<sup>19</sup> McKelvey K, et al. (2018). Heated tobacco products likely appeal to adolescents and young adults. Tobacco Control. Retrieved from [https://tobaccocontrol.bmj.com/content/tobaccocontrol/27/Suppl\\_1/s41.full.pdf](https://tobaccocontrol.bmj.com/content/tobaccocontrol/27/Suppl_1/s41.full.pdf) (accessed on 25 January 2019).

<sup>20</sup> Hair EC, et al. (2018). Examining perceptions about IQOS heated tobacco product: consumer studies in Japan and Switzerland. Tobacco Control. Retrieved from [https://tobaccocontrol.bmj.com/content/tobaccocontrol/27/Suppl\\_1/s70.full.pdf](https://tobaccocontrol.bmj.com/content/tobaccocontrol/27/Suppl_1/s70.full.pdf) (accessed on 25 January 2019).

<sup>21</sup> Some examples of marketing to children can be seen in <https://www.theguardian.com/world/2018/mar/09/how-children-around-the-world-are-exposed-to-cigarette-advertising>, <https://expathealth.org/healthcare/marlboro-advertising-targets-youth/>, [http://tobaccotactics.org/index.php/Be\\_Marlboro:\\_Targeting\\_the\\_World%27s\\_Biggest\\_Brand\\_at\\_Youth](http://tobaccotactics.org/index.php/Be_Marlboro:_Targeting_the_World%27s_Biggest_Brand_at_Youth)

<sup>22</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).

*"In many countries, including the UK, Sweden, and Japan, such products are displacing combustible cigarettes at a rapid rate. These experiences could well be replicated in China, Indonesia, and Brazil, affecting hundreds of millions of smokers."*

<sup>23</sup> Model policy for agencies of the United Nations system on preventing tobacco industry interference. Retrieved from <https://www.who.int/ncds/un-task-force/events/model-policy-agencies-united-nations1.pdf> (accessed on 25 January 2019).

<sup>24</sup> FSFW president Derek Yach's open letter to the WHO Executive Board, dated 24 January 2019. Retrieved from [https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw\\_who\\_letter\\_jan\\_2019.pdf](https://www.smokefreeworld.org/sites/default/files/uploads/reflections/fsfw_who_letter_jan_2019.pdf) (accessed on 25 January 2019).

*"We must do more to expand the body of scientific evidence on reduced-harm nicotine products and overcome the misinterpretation of risk by policy makers, physicians, and smokers. We plan to do this through a network of centers and requests for proposals to be announced early this year."*

<sup>25</sup> Prominent universities in North America and civil society groups, including those working internationally (e.g., Campaign for Tobacco-Free Kids, International Union Against Tuberculosis and Lung Disease, World Heart Federation, and Southeast Asia Tobacco Control Alliance), have condemned the duplicity of FSFW.