

The Role of the WHO FCTC in COVID-19 Responses



Executive Summary

Tobacco use carries risk of COVID-19 transmission and leads to worse health outcomes for COVID-19 patients. COVID-19 also endangers those with non-communicable diseases (NCDs) for which smoking is a major risk factor.

Life-saving tobacco control measures that urge smokers to quit would not only address the tobacco epidemic, but also reduce the burden the pandemic has imposed on healthcare systems. However, the tobacco industry, known to be the vector of the tobacco epidemic, causing 1.4 trillion dollars of economic losses annually along with 8 million deaths, has managed to project itself as a “solution” during the COVID-19 crisis. It has effectively concealed its role in promoting lethal products and downplaying the risks these products pose in relation to COVID-19.

Of particular challenge is that the COVID-19 crisis creates an exceptional need for all forms of support, including donations from the private sector, which includes the tobacco industry. The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) categorizes donations from the tobacco industry as corporate social responsibility (CSR), which enhances the reputation of the industry and enables it to market its products and lobby for weak tobacco control measures. Hence, countries that have not banned so-called CSR from the tobacco industry should do so. In cases where contributions have been received, governments must:

- inform all their sectors about the true purpose of tobacco industry so-called CSR activities;
- not endorse, support or participate in activities tied to the contribution;
- disallow publicity of contributions; and
- require the industry to submit information on all its so-called CSR activities and how these have been publicized.

The pandemic calls for strict regulation of an industry that produces products that provide no benefits whatsoever, kills up to half of its

consumers and increases the severity of COVID-19. To be consistent with the WHO FCTC in their response to the pandemic, governments can require from the tobacco industry:

- timely payment of taxes (no deferment),
- financial support for its workforce as well as small and medium enterprises (SMEs) in its supply and distribution chain,
- full compliance with temporary sales restrictions/bans, and
- surcharges or fees on its products in place of donations.

This is justified by the increased risk of worse COVID-19 outcomes due to smoking.

Finally, governments should advance implementation of the WHO FCTC in their efforts to address the COVID-19 pandemic. Governments must urge smokers to quit and create tobacco- and nicotine-free environments in workplaces and public spaces. In reviewing economic stimulus packages, governments must ensure that tobacco-sourced health financing is tapped to fund healthcare systems and tobacco control programs, and that food security programs include initiatives to shift tobacco growing to alternative livelihoods.

I. Background

Life-saving tobacco control measures that urge smokers to quit not only address the tobacco epidemic, but also reduce the burden the COVID-19 pandemic has imposed on the healthcare systems.

The tobacco industry, known to be the vector of the tobacco epidemic, causing 1.4 trillion dollars of economic losses¹ annually along with 8 million deaths,² has managed to project itself as a positive force during the COVID-19 crisis, effectively camouflaging its role in promoting lethal products and downplaying the risks these products pose in relation to COVID-19.

The WHO and health experts³ have cautioned that tobacco use carries risks of COVID-19 transmission/infection, and leads to worse outcomes in those diagnosed with COVID-19,⁴ including admission to the intensive care unit, the need for mechanical ventilation and death.⁵ Smoking

weakens the immune system, making it less able to fight infections;⁶ and increases the risk of viral and bacterial respiratory infections.⁷ Smoking, vaping and waterpipe smoking pose risk of transmission from the hand-to-mouth action and sharing of mouthpieces,⁸ as well as through exhaled smoke-or vape that could carry the virus.⁹

COVID-19 also endangers the life of those with pre-existing conditions like cancer, heart disease, stroke, lung disease, diabetes and chronic obstructive pulmonary disease,¹⁰ for which smoking is a major risk factor.¹¹

Because of the smoking-COVID-19 links, governments and health advocates have encouraged quitting smoking,¹² and in some cases, also warned against vaping.¹³ In some jurisdictions, such as India and South Africa, sales of cigarettes and vaping products have even been [banned during lockdown periods](#). Many in the tobacco control community consider this a distinct opportunity to address the tobacco epidemic,¹⁴ while the industry is seizing the opportunity to promote vaping.¹⁵ Concerns were raised¹⁶ when those promoting tobacco industry interests amplified misleading messages, [suggesting that smoking or vaping may be beneficial, a claim](#) based on [flawed research](#)¹⁷ on medical-grade nicotine's role in shielding against COVID-19 infections.

In the meantime, the tobacco and vaping industries, and third parties representing these industries' interests, have been [publicizing their donations](#) (e.g., ventilators and personal protective equipment [PPE]) and presenting themselves as part of the solution in vaccine development,^{18 19} while also promoting addictive products²⁰ and lobbying to relax sales restrictions.²¹ Tobacco-linked entities have made claims about [increased smuggling during the crisis](#), and have appealed to finance ministries for the lowering or deferment of excise tax payments.²²

In many developing nations, government offices, including those in the health sector, have indiscriminately received all forms of donations including those from the tobacco industry. Such donations are then given wide publicity in the mainstream²³ and social media, and in some cases, even publicly acknowledged by government officials.²⁴ Owing to the digital environment, publicity earned by the tobacco industry in one jurisdiction has a ripple effect in

other jurisdictions, including those where a comprehensive advertising ban is in place, thereby undermining said bans.

The vast majority of these governments are Parties to the global tobacco control treaty, the WHO Framework Convention on Tobacco Control (WHO FCTC),²⁵ which aside from being embodied in Goal 3 (Health) of the Sustainable Development Goals (SDGs), empowers governments to change the public's perception of the tobacco industry and its products. FCTC Article 13 mandates governments to adopt a comprehensive ban on tobacco advertising, promotion and sponsorship (TAPS);²⁶ while Article 5.3 requires governments to protect their public health policies from tobacco industry interests including denormalizing so-called CSR activities.²⁷

II. Issues

The COVID-19 crisis creates an exceptional need for all forms of support, including donations from the private sector. However, the tobacco industry's actions and contributions during the crisis only serve to promote itself and its products, and could create new barriers to WHO FCTC implementation and worsen health outcomes during the pandemic.

III. Discussion

Implementing the WHO FCTC to Achieve Sustainable Development Goals (SDGs) and Tackle Non-Communicable Diseases (NCDs)

Tobacco use is a major risk factor for NCDs, many of which are associated with increased severity of COVID-19 and worse outcomes,²⁸ and even fatal COVID-19. The pandemic ushered in the most opportune time to implement the WHO FCTC to address NCDs and save lives. Further, implementation helps achieve a key SDG target (Target 3.a) and plays a key role in advancing SDGs affecting hunger, poverty, environment, labor, gender, governance and partnerships.²⁹ Because "tobacco is deeply harmful to human health, and there can be no doubt that the production and marketing of tobacco is irreconcilable with the human right to health,"³⁰ treaty implementation also helps governments fulfill human rights commitments.

However, the adoption of effective tobacco control measures in accordance with the FCTC is hampered by the single greatest impediment—tobacco industry interference. Tobacco industry interference has led to uneven implementation of tobacco control measures among nations.³¹ In 2008, Parties to the WHO FCTC adopted Guidelines to assist in protecting public health from tobacco industry interference. By 2012, the entire international community also recognized the fundamental conflict of interest between the tobacco industry and public health at the UN General Assembly.³²

Conflict Between WHO FCTC Implementation and Tobacco Industry Donations

The tobacco industry's so-called CSR activities create an inherent contradiction, as the industry's core functions are in conflict with the goals of public health policies with respect to tobacco control.

According to the WHO FCTC and its Guidelines, tobacco companies' donations are categorized as so-called CSR activities. These activities are undertaken by tobacco companies "to portray themselves as good corporate citizens by making contributions to deserving causes or by otherwise promoting 'socially responsible' elements of their business practices... including... financial or in-kind contributions to organizations, ... either directly or through other entities."³³

Tobacco donations should be prohibited as part of a comprehensive ban, because the aim, effect or likely effect of such a contribution is to promote a tobacco product or tobacco use either directly or indirectly. "Publicity given to 'socially responsible' business practices of the tobacco industry should be banned, as it constitutes advertising and promotion."³⁴

Sixty-three (63) countries have a comprehensive ban on TAPS including so-called CSR activities.³⁵ In some jurisdictions that do not prohibit tobacco CSR activities or donations in the case of a calamity, publicity is banned to avoid undue promotion of unhealthy products. In governments where these have not yet been banned, Article 5.3 Guidelines suggest how to handle the industry's so-called CSR, including donations,³⁶ during crises like COVID-19.

FCTC Article 5.3 provides that governments must protect their public health policies from the commercial and vested interests of the tobacco industry³⁷ and ensure that they operate in a manner that is accountable and transparent.³⁸ The Guidelines recommend that governments “denormalize and, to the extent possible, regulate activities described as ‘socially responsible’ by the tobacco industry as this is a means for the tobacco industry to distance its image from the lethal nature of the product it produces and sells or to interfere with the setting and implementation of public health policies.”³⁹

Moreover, the Guidelines recommend that “all branches of government and the public are informed and made aware of the true purpose and scope of activities described as socially responsible performed by the tobacco industry”; and that governments do not endorse, support or form partnerships with or participate in such activities, nor allow public disclosure of the same. Governments should not allow acceptance “by any branch of government or the public sector of... contribution from the tobacco industry or from those working to further its interests, except for compensations due to legal settlements or mandated by law or legally-binding and enforceable agreements.”^{40 41}

Aside from serving as a marketing tool, the tobacco industry’s so-called CSR activities are used as a means to access policymakers⁴² for the purpose of weakening tobacco control legislation and subverting WHO FCTC implementation. Notably, the WHO FCTC sets the floor and not the ceiling in regulating production, packaging, taxation and distribution of tobacco products. Governments are encouraged to implement measures beyond those required by the treaty and its protocols, and to allow imposition of stricter requirements.⁴³ The exceptional circumstances of the pandemic call for non-traditional ways to protect public health from products that cause higher risk of infection and more severe COVID-19 illness. Below are some options consistent with the FCTC.

IV. Recommendations

In order to save lives in the thousands, whether as part of COVID-19 strategy or not, governments should advance WHO FCTC implementation to address the pandemic. Because the biggest challenge for tobacco control implementation is the tobacco industry, it must

not be allowed to benefit from the crisis in a manner that undermines public health. In addition, it must not be granted the fiscal privileges given to other businesses. The WHO FCTC and its Guidelines should inform the creation of COVID-19-related policies.

Recommendation 1: Address the tobacco industry’s so-called CSR activity during COVID-19.

All forms of TAPS, including so-called CSR and donations, must be banned or, at least, not publicized.

1.1 Countries that have banned CSR

Sixty-three (63) countries at present comprehensively ban TAPS, including CSR.⁴⁴ Countries that already ban all forms of TAPS should strictly implement the same and ensure that tobacco companies are not allowed to publicize their CSR activities. The interconnectedness of the world in digital media poses a serious challenge. Tobacco CSR and public relations (PR) stunts shared via social media spread across geographic regions, furthering the reach of its misleading messages. This could undermine the tobacco CSR ban in many countries.

To combat widespread misinformation,⁴⁵ governments must flood the media with truth to counter the tobacco industry’s misleading publicity stunts. Cybercrime laws must cover messages that undermine public health efforts and should be strictly enforced with particular focus on cross-border messages. Cooperation from the technology industry should be sought. Notably, Facebook and Instagram have a policy to “prohibit users and groups from selling, transferring or gifting tobacco products including hookah, e-cigarettes, and tobacco paraphernalia.”⁴⁶ This needs to be revisited given the distorted and harmful health messages that further the interests of the tobacco industry during the crisis.

1.2 Countries that have not banned CSR or have received donations

Those that have not completely banned tobacco industry CSR must ban it as soon as possible, in accordance with FCTC Article 13.

Where tobacco donations are not banned and contributions have been received, FCTC Articles 5.3 and 13 have

straightforward recommendations. Governments must:

- Inform all sectors of government about the true purpose of CSR activities;
- Not endorse, support or form partnerships with or participate in activities tied to the donation/contribution;
- Disallow the publicity of donation/contribution; and,
- Require the tobacco industry to submit information on all its CSR activities and how these have been publicized.

Where tobacco industry CSR is not banned, governments must be mindful that any form of CSR should be in full compliance with laws already in place, including governments' global commitments, including to the WHO FCTC. In accordance with FCTC Article 5.3, all forms of information that would facilitate tobacco control implementation should be required from the tobacco industry. Across the European Union and in the UK, corporations, particularly publicly listed ones, are legally required to report on corporate governance⁴⁷ and activities⁴⁸ that have social impact, including CSR. CSR ranges from improving the social impact of its operations and supply chain relations to helping the community.

Recommendation 2: Regulate the tobacco industry in accordance with the WHO FCTC during COVID-19 response.

The pandemic calls for strict regulation of an industry that produces products that provide no benefits whatsoever, kill up to half of its consumers⁴⁹ and cause more severe COVID-19 illness. No economic incentives should be granted to such an industry,⁵⁰ and should in fact, by law or regulation, be excluded from any government economic-crisis-recovery packages. Instead, governments may consider identifying appropriate standards in tobacco control regulation, consistent with the FCTC, and could consider these as "allowable forms of contributions" from the tobacco industry and those working to further its interests.

Instead of extending economic assistance and concessions to the industry, governments can require from the tobacco industry:

a. Timely payment of taxes (no deferment)

Because stimulus packages are key to COVID-19 economic recovery, governments will benefit from liquidity during

the crisis. Many industries, especially in the small and medium enterprises sector, will seek tax reprieve in the form of discount, waiver or deferred payments. The tobacco industry has already been reported to seek such tax privileges.

Governments must not give any tax exemption or other privileges for the tobacco industry to run its business. The tobacco industry can be excluded from any tax reprieve granted to the rest of the industry. In most jurisdictions where a sizable amount of tax is collected from the tobacco industry, the monetary value of savings arising from this policy would far exceed the value of tobacco donations, and could go a long way in the nation's economic recovery.

If tobacco is not excluded from such tax reliefs, governments should calculate the cost of deferring substantial tax payments due from tobacco companies, as this is part of monitoring the privileges and incentives enjoyed by the tobacco industry in contravention with FCTC Article 5.3.

b. Financial support for the workforce and small and medium enterprises in its supply and distribution chain

Governments protect workers with relief goods, direct payments and other forms of social welfare, while they protect struggling businesses and SMEs through fee waivers, loan packages, tax exemptions and other fiscal stimulus measures. To reduce governments' social welfare burden, transnational tobacco companies should take responsibility for all those in their supply and distribution chain during the crisis, especially by complying with tobacco sales bans during lockdown. Transnational tobacco companies must be held to being "socially responsible" throughout their supply chain.

Tobacco companies are, on the one hand, providing COVID-19 donations in cash or in kind;⁵¹ but on the other, are lobbying to be classified as "essential goods" to continue operations during lockdown conditions.⁵² Workers in Nigeria reportedly complained that tobacco companies are violating workers' rights by exposing them unnecessarily to risks of infection by resuming operations⁵³. In Indonesia, a local Philip Morris factory had to be shut down due to COVID-19 deaths.⁵⁴ This exacerbates the human rights assessment of Philip Morris International (PMI), which concluded that the tobacco industry

“flagrantly violates human rights” responsibilities by “producing, marketing, and selling a product that is deadly by design.”⁵⁵ CSR activities, including COVID-19 donations, could potentially be used to mask human rights violations⁵⁶ and influence public health policies.

c. Full compliance with temporary sales restrictions/ bans

It is imperative that no smoking messages are reinforced during COVID-19, and tobacco control measures must not be relaxed. Temporary tobacco sales restrictions/bans and categorization of tobacco products as non-essential are considered important health measures to prevent transmission of the virus. These have been adopted in countries like Czech Republic, India and Philippines;⁵⁷ also in Iran, Kuwait, Pakistan, Qatar and Saudi Arabia for waterpipes.⁵⁸ These bans, in a pragmatic way, practically roll all demand-reduction measures into one.

Transnational tobacco companies are expected to fully comply with temporary sales bans instead of wasting the resources and time of governments by lobbying against them. And yet, in several countries enforcing temporary sales bans on tobacco products, the tobacco industry is lobbying for a reversal or relaxation of such measures⁵⁹. In some cases, industry-backed reports of increased smuggling⁶⁰ are used to justify relaxation of sales bans.⁶¹ Social responsibility starts with full compliance with the law, and no amount of donation can be sufficient to justify relaxation of important public health measures that unnecessarily increase health risks.

d. Surcharges or fees on tobacco products in place of tobacco industry donations

Governments should consciously quantify such financial contributions and establish mechanisms to replace projected or anticipated contributions with mandatory collections from the tobacco industry. Guidelines on the Implementation of Article 6 (Tax and Price Measures) of the WHO FCTC acknowledge the sovereign right of governments “to decide how the revenue stemming from tobacco taxation is used,” and noted that tobacco taxes provide a potential source of financing for tobacco control⁶². According to the Guidelines, governments could consider “dedicating revenue to tobacco-control programmes, such as those covering awareness raising, health promotion and disease prevention, cessation services, economically-viable alternative activities, and

financing of appropriate structures for tobacco control.”

The tobacco industry can be expected to challenge any government efforts to require mandatory payments as a threat to its profits. If this concern was real, tobacco companies would no longer have a budget for corporate donations or CSR. One objective is to view the payments as a means to monetize CSR efforts and transform them into mandatory and legally-required payments, consistent with FCTC Article 5.3; so that they are not used to rehabilitate the tobacco industry’s image, market its products or be used to lobby/access politicians and influence policy. Furthermore, there is no better time than now to demand the same to support COVID-19 recovery plans. The tobacco industry must not be allowed to get away with paying “dole-outs” that are disproportionate to the harms it causes.

In estimating the amounts due from the tobacco industry, a few approaches can be considered:

i. Estimating the anticipated CSR: This approach converts CSR activities into mandatory payments. Corporate budgets typically charge CSR expenses, including charitable donations, as “other costs” of doing business. A review of corporate financial statements submitted annually to tax/ revenue authorities can provide estimates. Globally, large transnational companies in the consumer world have set aside a CSR budget of up to 5% of profits. India, the only country that requires mandatory CSR allocations from sizable businesses, requires 2% of profits to be set aside for CSR.⁶³

ii. Estimating the overall healthcare costs: This approach holds the tobacco industry accountable for costs related to the harms of its products. In the US, tobacco companies were required to pay a minimum of \$206 billion over the first 25 years as part of the settlement from the Attorney General’s healthcare reimbursement claim.⁶⁴ Canada passed a legislation to allow its provinces to recover past healthcare costs from tobacco-related deaths.⁶⁵ Some proponents have also studied the determination of compensable injuries (e.g. full cost recovery for lung-related injuries) in proposals for statutory compensation schemes that shift the healthcare costs to tobacco companies.⁶⁶

iii. Estimating COVID-19-related costs for smokers:

This approach holds the tobacco industry accountable for the cost of more severe COVID-19 illness suffered by smokers. Treatment for COVID-19 can cost from \$25,000 to \$75,000 per person, and even more for severe illnesses.⁶⁷ A significant part of the cost covers the use of mechanical ventilators.⁶⁸ Even under the assumption that only 100 COVID-19 patients are smokers and the lowest estimate of \$25,000 is used despite the severity of the illness, the cost would amount to \$2,500,000. The tobacco industry's donations of masks, cash and ventilators thus far would hardly have impact on the actual COVID-19 casualties of smokers.

e. Information on third-party affiliates

Tobacco companies have a well-documented history of skirting advertising bans by shifting their budget towards activities that undermine the purpose of such bans. Requiring information helps governments recognize tobacco industry tactics, discern if certain data are reliable or biased and determine if certain entities are serving vested and commercial interests. This has become more difficult as the tobacco industry provides grants to various entities that represent its interests:⁶⁹ The Foundation for a Smoke-Free World, PMI Impact and Stop Illegal are key examples.

In the context of smuggling reports during lockdown⁷⁰, the tobacco industry, either directly or through intermediaries, may take the opportunity to seek partnerships with governments. Having data on tobacco industry activities will prevent undue influence on public health policies in relation to tobacco control. Information on corporate marketing expenses could also provide the basis for estimating the industry's CSR and lobbying budget.

Recommendation 3: Incorporate tobacco control measures when constructing the "new norms" in workplaces and public spaces.

Governments must urge smokers to quit and create tobacco- and nicotine-free environments when creating policies affecting new norms in workplaces and public spaces.

As a part of lockdown measures, governments have enacted new norms for workplaces and public spaces.

In many jurisdictions, public gatherings and transport are minimized; virtual presence is increased because work and schooling from home are encouraged; use of masks is required or recommended in all public places; physical distancing in public spaces is implemented; and, goods/establishments that are classified as essential are identified.⁷¹ Tobacco control measures should be reinforced in each of these measures.

As children spend more time online, governments must crack down on illegal advertisements (postings and social influencing) on the Internet, with particular vigilance on the tobacco industry, which is known to use digital media,⁷² and social media influencers⁷³ to attract youth to smoking and vaping.

Smoking or vaping does not promote proper mask-usage; physical distancing guidelines become less effective if smoking or vaping is allowed in public areas, as exhaled air, comprised of smoke or vapors, plays a role in the transmission of the virus. Hence, clear rules about banning smoking in any public space must be reinforced.

The industry is lobbying for cigarettes to be identified as essential goods. Classifying tobacco products as essential goods would contradict public health protection measures because smoking, waterpipe smoking and vaping contribute to the transmission of COVID-19 virus and result in increased exposure in the home to secondhand smoke, which causes 600,000 deaths globally every year.⁷⁴ Keeping tobacco factories open would constitute a violation of workers' human rights due to COVID-19 exposure, as reportedly raised in countries like Indonesia,⁷⁵ Nigeria⁷⁶ and Zimbabwe.⁷⁷

Since many workplace guidelines are being revised in accordance with the "new normal," governments must ensure that these include strictly enforced "no smoking" policies for the reasons cited above. To better protect the health of workers, employers in the business sector must be duly informed of the role of smoking/vaping in transmitting COVID-19. Similarly, those operating public spaces are revising their guidelines, and should include "no smoking/vaping" policies to ensure policy coherence and help counter public confusion about smoking/vaping.

Recommendation 4: Include tobacco control in COVID-19 recovery plans.

In reviewing economic stimulus packages, governments can ensure that tobacco-sourced health financing is tapped to fund healthcare systems and tobacco control programs, and that food security programs include initiatives to shift tobacco growing to alternative livelihood.

WHO FCTC implementation can feature in various aspects of a recovery plan for COVID-19. Some of these are described below:

a. Economic stimulus plans

In response to the unprecedented disruption in the economy, governments have enacted sizable economic support in the form of fiscal stimulus packages. Beneficiaries include workers; the healthcare sector; SMEs; banking sectors; sectors involved in the food, medicine and essential goods supply chain; and business sectors most adversely affected such as retail, travel and tourism. Measures could include a mix of fiscal incentives, monetary/capital infusion and loan packages, among others.

In order to recover from the crisis towards a more sustainable, inclusive and equitable economy, governments must be guided by the SDGs, in which the WHO FCTC plays a crucial role. Of significant relevance is FCTC Article 6 where tobacco taxation is deemed a tool to simultaneously reduce smoking, lessen the burden on health systems and finance public health investments.

Among the tools developed under Article 19, on the liability of the tobacco industry, is a healthcare cost recovery mechanism⁷⁸ which utilizes the court system to hold the industry accountable and allows governments to allocate proceeds of the suit to health programs. Overall, tobacco taxes have been explored as an innovative funding⁷⁹ source for health,⁸⁰ development,⁸¹ and even solidarity funds.⁸² Exploring these to support global economic recovery from the COVID-19 pandemic would substantially benefit public health.

b. Food security plans

Governments that are seeing uncertainties in food security should keep in mind that FCTC Articles 17 and 18 call for shifting tobacco farming to alternative livelihoods. Acreage devoted to tobacco farming can be shifted to food farming. Tobacco farming and processing are toxic and often involvements the employment of children (at least 1.3 million children work in tobacco fields every year).⁸³ Even during the crisis, the tobacco industry has continued to use predatory pricing strategies, leaving farmers with little choice due to contract pricing arrangements.⁸⁴

c. Pandemic preparedness plans

Pandemic preparedness plans such as Pandemic Influenza Preparedness (PIP) Plans and National Action Plans for Health Security will likely be reviewed. Given the tobacco industry's tactics during the COVID-19 crisis, such as its global corporate marketing stunt to show that it plays a key role in vaccine development,⁸⁵ health officials must ensure policy coherence among the WHO treaties and international instruments (International Health Regulations [IHR], PIP Framework, WHO FCTC, Protocol to Eliminate Illicit Trade in Tobacco Products).

To protect public health policies from tobacco industry interests in accordance with FCTC, governments must avoid seeing the tobacco industry as part of the public health solution. Since use of tobacco products will exacerbate any pandemic, tobacco control should always be integrated in any pandemic preparedness plans. And because the tobacco industry will try to undermine these efforts, it should be specifically excluded from contributing to or influencing such plans.

V. Conclusion

The WHO FCTC provides a slew of health and socio-economic tools to address COVID-19 and puts governments in a position to demand full accountability for the harms caused by tobacco. There is no better time than now to advance WHO FCTC implementation to support COVID-19 recovery plans. Allowing the tobacco industry to be painted as a COVID-19 hero would do nothing but increase barriers to and undermine the implementation of life-saving measures.

Resources

- a. Talking Points on Tobacco and COVID-19 (available)
- b. Sample Issuance re Tobacco CSR during COVID-19 (available)
- c. Draft Comments on COVID-19 Economic Recovery Plans (to follow or as needed/ requested)
 - 1.3 “New Normal” Public Spaces and Workplaces, Workplace Guidelines, Employers, Business Owners
 - 1.4 Economic Stimulus Packages

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Annex

Guidance on Tobacco Industry's so-called Corporate Social Responsibility

Guidelines for the Implementation of Article 13

25. It is increasingly common for tobacco companies to seek to portray themselves as good corporate citizens by making contributions to deserving causes or by otherwise promoting "socially responsible" elements of their business practices.

26. Some tobacco companies make financial or in-kind contributions to organizations, such as community, health, welfare or environmental organizations, either directly or through other entities. Such contributions fall within the definition of tobacco sponsorship in Article 1(g) of the Convention and should be prohibited as part of a comprehensive ban, because the aim, effect or likely effect of such a contribution is to promote a tobacco product or tobacco use either directly or indirectly.

27. Tobacco companies may also seek to engage in "socially responsible" business practices (such as good employee–employer relations or environmental stewardship), which do not involve contributions to other parties. Promotion to the public of such otherwise commendable activities should be prohibited, as their aim, effect or likely effect is to promote a tobacco product or tobacco use either directly or indirectly. Public dissemination of such information should be prohibited, except for the purposes of required corporate reporting (such as annual reports) or necessary business administration (e.g., for recruitment purposes and communications with suppliers).

28. Tobacco industry public education campaigns, such as "youth smoking prevention campaigns" should be prohibited on the basis that they involve "contributions" when implemented by other parties or represent corporate promotion if conducted by the industry itself.

Recommendation

The Parties should ban contributions from tobacco companies to any other entity for "socially responsible causes", as this is a form of sponsorship. Publicity given to "socially responsible" business practices of the tobacco industry should be banned, as it constitutes advertising and promotion.

Guidelines for the Implementation of Article 5.3

(6) Denormalize and, to the extent possible, regulate activities described as "socially responsible" by the tobacco industry, including but not limited to activities described as "corporate social responsibility".

26. The tobacco industry conducts activities described as socially responsible to distance its image from the lethal nature of the product it produces and sells or to interfere with the setting and implementation of public health policies. Activities that are described as "socially responsible" by the tobacco industry, aiming at the promotion of tobacco consumption, is a marketing as well as a public relations strategy that falls within the Convention's definition of advertising, promotion and sponsorship.

27. The corporate social responsibility of the tobacco industry is, according to WHO,¹ an inherent contradiction, as industry's core functions are in conflict with the goals of public health policies with respect to tobacco control.

Recommendations

6.1 Parties should ensure that all branches of government and the public are informed and made aware of the true purpose and scope of activities described as socially responsible performed by the tobacco industry.

6.2 Parties should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible.

6.3 Parties should not allow public disclosure by the tobacco industry or any other person acting on its behalf of activities described as socially responsible or of the expenditures made for these activities, except when legally required to report on such expenditures, such as in an annual report.²

6.4 Parties should not allow acceptance by any branch of government or the public sector of political, social, financial, educational, community or other contributions from the tobacco industry or from those working to further its interests, except for compensations due to legal settlements or mandated by law or legally binding and enforceable agreements.

¹ WHO. Tobacco industry and corporate social responsibility – an inherent contradiction. Geneva, World Health Organization, 2004.

² The Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control address this subject from the perspective of tobacco advertising, promotion and sponsorship.

Endnotes

- 1 Goodchild M, et al. (2018). Global economic cost of smoking-attributable diseases. *Tobacco Control*. Vol. 27, pp. 58–64. Retrieved from <https://tobaccocontrol.bmi.com/content/tobaccocontrol/27/1/58.full.pdf> (accessed on 07 May 2020).
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about tobacco industry interference with Parties' tobacco control policies. (2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur. (3) Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry. (4) Avoid conflicts of interest for government officials and employees. (5) Require that information provided by the tobacco industry be transparent and accurate. (6) Denormalize and, to the extent possible, regulate activities described as 'socially responsible' by the tobacco industry, including but not limited to activities described as 'corporate social responsibility'. (7) Do not give preferential treatment to the tobacco industry. (8) Treat State-owned tobacco industry in the same way as any other tobacco industry."

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