

The WHO Framework Convention on Tobacco Control – time for a civil society equivalent?

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Key points

- Article 5.3 of the World Health Organization Framework Convention on Tobacco Control aims to prevent tobacco companies from influencing government public health policies
- Now more than ever, the tobacco industry seeks the credibility of association with reputable scientists and organisations
- A civil society equivalent of Article 5.3 is needed to protect reputable organisations from associating with or lending support and credibility to the tobacco industry

Abstract

Article 5.3 of the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) 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.

While this sets clear standards for governments, there is no equivalent for health and related organisations and those who work with them. The tobacco industry, now more than ever, seeks the credibility of association with reputable scientists and organisations, as part of a strategy to present itself as part of the solution to a problem it has created and continues to promote. At the same time, it opposes evidence-based action to reduce smoking and its harms. This paper proposes that it is time to establish a civil society equivalent of Article 5.3 to protect reputable organisations from associating with or lending support and credibility to the tobacco industry.

Background

Article 5.3 of the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) was adopted in 2003 and has been ratified by 181 countries.¹ This followed a World Health Assembly resolution confirming that “the tobacco industry has operated for years with the express intention of subverting the role of governments and of WHO in implementing public health policies to combat the tobacco epidemic”², and sets out the principle that “there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests”.³ The subsequent import of Article 5.3 in the WHO FCTC is that governments “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”, and that the industry and its representatives should be excluded from any role in health-related policy discussions and development.³

There is a vast literature demonstrating that tobacco has for decades been and remains not only the world’s most lethal industry, but also dishonest,

devious and corrupt.⁴ While WHO reports that tobacco now kills some 8 million people each year⁵, the industry has become more strategic and aggressive, through approaches including lobbying, front organisations⁶, denigration of individuals whose views it dislikes^{7,8}, and litigation and trade disputes to prevent or delay governmental action on smoking. In the words of a 2016 UK High Court judgement, the tobacco industry “facilitates and furthers, quite deliberately, a health epidemic. And moreover, a health epidemic which imposes vast negative health and other costs upon the state”.⁹

Industry tactics to undermine tobacco control

Tobacco company strategies include promoting limited and highly selective information about minimally described and downplayed harms caused by their products, presenting themselves as responsible corporate citizens seeking solutions, and claiming altruism and innocence by association. To this end they have sought to associate themselves with worthwhile causes and reputable organisations, and to fund research and researchers in ways that can be presented as evidence of their concern, from the earliest days of the notorious ‘Frank Statement’¹⁰ – a 1954 advertisement by American tobacco companies as part of a campaign aimed at creating doubt about studies showing cigarettes cause harm – to the Philip Morris-funded “Foundation for a Smoke-Free World”.¹¹ They have also over time developed a vast range of either modified or new products claimed and promoted as reducing the harms of smoking.¹²⁻¹⁴ The low tar and filters frauds¹⁴ served the industry well for decades in discouraging smokers from quitting, misleading children, generating support from some scientists and distracting governments from effective policies, but there are many other examples, through to the ever-growing range of aggressively promoted novel products of the present day.¹⁵

The rationale for tobacco company efforts to ‘build relationships’, ‘form alliances’, ‘establish coalitions’ and simply to engage with health groups and researchers has been especially well documented in relation to the Philip Morris ‘Project Sunrise’ – with advantages ranging from weakening credibility of anti-tobacco groups and individuals to explicitly dividing and conquering the tobacco control movement.¹⁶

In recent years the major tobacco companies have placed a renewed emphasis on using science (and their scientists) as a means of circumventing Article 5.3.¹⁷ Now more than ever, the industry seeks the credibility of association with reputable scientists and organisations, so that it can present itself as part of the solution to a problem it has created and continues to promote, while

fiercely opposing evidence-based action to reduce smoking and its harms.

At one time, scientists and others could have been forgiven for believing that there might be a case for trusting or working with tobacco companies. Decades ago some of us hoped that informal discussions with tobacco industry employees could enable us to learn something about the industry and its activities; that its scientists might have a genuine interest in open communication in the interests of benefiting health; or that quiet discussions with the industry might help to change their attitudes and approaches.

But we have learned over the years, not least from millions of once-confidential industry documents now accessible following the US 1998 Master Settlement Agreement¹⁸, as well as from further exposés, that they will only tell us exactly what they are allowed or instructed to tell us, on occasions maintaining operations that are secret even within companies¹⁹; that the industry is likely to learn and benefit even more from these interactions; that the companies suppress infinitely more information than they make available; that any information provided by tobacco companies not fully in the public arena and verifiable has no plausibility; and that the industry responds only to regulation, legislation, litigation, and public pressure. Seven decades after conclusive evidence that smoking is lethal, the companies themselves confirm that cigarettes remain their “core” product²⁰ for the foreseeable future, and that low- and middle-income countries are a key growth target.^{21,22}

Reinforcing Big Tobacco’s pariah status – a role for civil society as well as governments

Like much else in tobacco control, implementation of Article 5.3 is imperfect, particularly in countries where the industry remains powerful. Nonetheless, Article 5.3 sends out an important signal about the pariah status of Big Tobacco. It helps health departments to ensure that their work is supported across all arms of government²³ and has played a critical role in promoting action to reduce both smoking and the influence of the tobacco industry.²⁴

But Article 5.3, as part of the FCTC, applies only to governments, not to other organisations. Even though 181 countries have signed up to the FCTC, and hence Article 5.3, there is no similar convention to protect reputable organisations from associating with or lending support and credibility to the tobacco industry.

Many non-government groups have taken action that accords with the spirit of Article 5.3 – for example journals that do not accept tobacco industry-funded publications, universities and research institutions that do not accept tobacco-funded projects, funders that will not support applications from those with tobacco interests, conferences and other events that specifically exclude

tobacco-industry participants, charities that do not accept tobacco-industry donations, investment portfolios that have disinvested from tobacco shares, and groups such as the Bloomberg-funded STOP Partnership²⁵ that plays a valuable role in monitoring and exposing tobacco industry activities. Since 1990, World Conferences on Tobacco or Health have excluded “individuals who are supported or employed by any entity directly involved in the production, manufacture, distribution or sale of tobacco products”.²⁶ Some conferences are even more thorough in ensuring that there can be no tobacco or related industry infiltration²⁷ and explicit in “upholding a firm non-engagement policy with the tobacco industry”.²⁸

It should be emphasised that these constraints and criticisms focus on tobacco companies and those who work with and are linked with the industry. They do not apply to genuinely independent researchers who are of course absolutely entitled to hold and promote their perspectives – whatever those might be. We all benefit from robust and respectful debate.

But it is a concern that 70 years after compelling evidence that smoking kills, the world’s most lethal industry not only maintains but now increases its efforts to influence the scientific and policy debate despite innumerable exposés, and directly counter to the ethos of Article 5.3.

Discussion and conclusion

Article 5.3 sets clear standards for governments, yet there is no equivalent for health and related organisations and those who work with them. Tobacco industry representatives and those funded by the industry are permitted to participate in some scientific conferences; papers from tobacco companies and their funded groups are accepted by some journals; and some reputable scientists participate in events organised by the industry or groups directly and indirectly funded by it, engage in conferences alongside industry representatives, and meet and associate with industry employees or industry-funded scientists. Surely all health organisations, including academic institutions and conferences, should be willing to adopt the ethical standards we require of governments. Such a stance would maintain an evil industry’s pariah status, deprive tobacco companies of the credibility that comes from acceptance and association and, in the words of McKee and Stuckler, “shape norms for healthy policy making”.²⁹

It is time to establish a civil society equivalent of Article 5.3 – a declaration mirroring its intent and reflecting its wording.

1) There is a fundamental and irreconcilable conflict between the tobacco industry’s interests, public health interests, the United Nations’ Sustainable Development Goals³⁰ and the WHO FCTC

- 2) The tobacco industry has operated for years with the express intention of subverting public health policies to combat the tobacco epidemic
- 3) In setting and implementing their policies and other activities, health-related organisations and their employees and members will not support or participate in any activities that entail association with the tobacco industry or its representatives. This includes organisations funded directly and indirectly by the tobacco industry
- 4) The only condition under which any involvement with the tobacco industry may be acceptable is if necessary to counter and expose its activities, for example through litigation or questions asked publicly at Annual General Meetings.

Such a declaration, which could be developed by leading international health NGOs, in association with WHO, would stand well alongside the FCTC, providing a timely demonstration that health and academic organisations are willing to apply the same standards to themselves as those expected of governments. It would also play a valuable role in countering the continuing and even increasing efforts of tobacco companies to influence and weaken the work of those who seek to reduce smoking and its harms.

Peer review and provenance

Externally peer reviewed, invited.

Competing interests

MD is a Life Member of the Australian Council on Smoking and Health and the Public Health Association of Australia.

Author contributions

MD is the sole author.

References

1. World Health Organization. WHO Framework Convention on Tobacco Control. Geneva: WHO; 2003 [cited 2020 Jan 31]. Available from: www.who.int/fctc/text_download/en/
2. World Health Organization. Fifty-fourth World Health Assembly WHA54.18. Geneva: WHO; 2001 [cited 2020 Jan 31]. Available from: apps.who.int/gb/archive/pdf_files/WHA54/ea54r18.pdf
3. World Health Organization. Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. Geneva: WHO; 2008 [cited 2020 Jan 31]. Available from: www.who.int/fctc/guidelines/adopted/article_5_3/en/
4. Apollonio D, Glantz S. Tobacco industry promotions and pricing after tax increases: an analysis of internal industry documents. *Nicotine Tob Res.* 2019;1–8.

5. World Health Organization. Tobacco. Geneva: WHO; 2019 [cited 2020 Jan 31]. Available from: www.who.int/news-room/fact-sheets/detail/tobacco
6. Vital Strategies, Stopping Tobacco Organisations and Products (STOP). Crooked nine: nine ways the tobacco industry undermines health policy. New York, NY: Vital Strategies, STOP; 2019 [cited 2020 Jan 31]. Available from: exposetobacco.org/wp-content/uploads/2019/09/Crooked-9-STOP.pdf
7. Olczak J. TC only see Big Tobacco. Should be renamed to Big Tobacco Control. Zero empathy to smokers, vapers and anybody else; 2020 [cited 2020 Feb 5]. Available from: twitter.com/j_olczak/status/1223567894434537472
8. Gilchrist M. Listening to “experts” opine on coronavirus outbreak on US (TV emoji) Having difficulty believing a word that they say given the same “experts” coverage of vaping lung illness; 2020 [cited 2020 Feb 5]. Available from: twitter.com/DrGilchrist/status/1222127696442011653
9. R. (British American Tobacco UK Ltd & Others) v Secretary of State for Health (2016) EWHC 1169. (Admin). Available from: www.bailii.org/ew/cases/EWHC/Admin/2016/1169.html
10. The Frank Statement. Sourcewatch; 2019 [cited 2020 Jan 31]. Available from: www.sourcewatch.org/index.php/The_Frank_Statement
11. Foundation for A Smoke-Free World. New York, NY: Foundation for A Smoke-Free World; 2019 [cited 2020 Jan 31]. Available from: www.smokefreeworld.org/
12. Philip Morris International. Our findings to date. Neuchâtel, Switzerland: Philip Morris Limited; 2019 [cited 2020 Aug 21]. Available from: www.pmi.com/our-science/our-findings-to-date
13. British American Tobacco. 2018 Harm Reduction Focus Report. London: BAT; 2018 [cited 2020 Aug 21]. Available from: [www.bat.com/group/sites/UK__9D9KCY.nsf/vwPagesWebLive/DO964UGU/\\$file/Harm_Reduction_Focus_Report_2018.pdf](http://www.bat.com/group/sites/UK__9D9KCY.nsf/vwPagesWebLive/DO964UGU/$file/Harm_Reduction_Focus_Report_2018.pdf)
14. Proctor RN. Golden Holocaust: origins of the cigarette catastrophe and the case for abolition. Berkeley: BMJ Publishing Group, 2011.
15. E-cigarettes – new products, old tricks. *Lancet Oncol.* 2018;19(12):1543.
16. McDaniel PA, Smith EA, Malone RE. Philip Morris's Project Sunrise: weakening tobacco control by working with it. *Tob Control.* 2006;15:215–23.
17. Philip Morris International. A message from @ManuelPeitsch, our Chief Scientific Officer @PMIScience; 2020 [cited 2020 Jan 31]. Available from: twitter.com/InsidePMI/status/1217778525685633025
18. University of California San Francisco. Truth tobacco industry documents. San Francisco, CA: UCSF; 2020 [cited 2020 Feb 5]. Available from: www.industrydocuments.ucsf.edu/tobacco/
19. Diethelm P, Rielle J, McKee M. The whole truth and nothing but the truth? The research that Philip Morris did not want you to see. *Lancet.* 2005;366(9479):86–92.
20. Philip Morris USA. Making our cigarettes. Richmond, Virginia: Philip Morris USA; 2020 [cited 2020 Sep 8]. Available from: www.philipmorrisusa.com/products/making-our-cigarettes
21. British American Tobacco. Annual report and form 20-F 2019. London: BAT; 2020 [cited 2020 Aug 21]. Available from: [www.bat.com/group/sites/UK__9D9KCY.nsf/vwPagesWebLive/DOAWWGJT/\\$file/BAT_Annual_Report_and_Form_20-F_2019.pdf](http://www.bat.com/group/sites/UK__9D9KCY.nsf/vwPagesWebLive/DOAWWGJT/$file/BAT_Annual_Report_and_Form_20-F_2019.pdf)
22. Philip Morris International. Philip Morris International 2019 annual report. Neuchâtel, Switzerland: PMI; 2020 [cited 2020 Aug 21]. Available from: media.corporate-ir.net/media_files/IROL/92/92211/2020-PMI-FinalFiles/index.html
23. Australian Government Department of Health. Guidance for public officials on interacting with the tobacco industry internet. Canberra: Australian Government Department of Health; 2019 [cited 2020 Jan 31]. Available from: www.health.gov.au/sites/default/files/documents/2019/11/guidance-for-public-officials-on-interacting-with-the-tobacco-industry.pdf
24. World Health Organization. Impact assessment of the WHO FCTC. Geneva: WHO [cited 2020 Jan 31]. Available from: www.who.int/fctc/implementation/impact/en/
25. Bloomberg Philanthropies. Stopping Tobacco Organizations and Products (STOP). New York, NY: Bloomberg Philanthropies; 2020 [cited 2020 Aug 21]. Available from: www.bloomberg.org/program/public-health/stoptobacco/#overview
26. 18th World Conference on Tobacco or Health. WCTOH; 2020 [cited 2020 Jan 31]. Available from: wctoh.org/
27. Registration. European Conference on Tobacco or Health; 2020 [cited 2020 Jan 31]. Available from: www.ectoh.org/conference-ticket.html
28. Why tobacco industry representatives are not welcome at our event. New York, NY: Vital Strategies; 2020 [cited 2020 Feb 17]. Available from: www.vitalstrategies.org/why-tobacco-industry-representatives-are-not-welcome-at-our-event/
29. McKee M, Stuckler D. Revisiting the corporate and commercial determinants of health. *Am J Public Health.* 2018;108(9):1167–70.
30. United Nations. Sustainable Development Goals. Geneva: UN [cited 2020 Aug 21]. Available from: www.un.org/sustainabledevelopment/

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