

NINE WAYS  
THE TOBACCO INDUSTRY UNDERMINES  
HEALTH POLICY

# CROOKED NINE



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STOPPING TOBACCO  
ORGANIZATIONS & PRODUCTS

Stopping Tobacco Organizations and Products (STOP) is a global tobacco industry watchdog whose mission is to expose the tobacco industry strategies and tactics that undermine public health. STOP is funded by Bloomberg Philanthropies ([www.bloomberg.org](http://www.bloomberg.org)) and is a partnership between The Global Center for Good Governance in Tobacco Control, The Tobacco Control Research Group at the University of Bath, The Union and Vital Strategies.



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## EXECUTIVE SUMMARY

The tobacco industry has a problem. It faces the threats of diminishing sales of conventional cigarettes and declining influence as its role as a leading killer becomes more apparent around the world. Tobacco will kill 1 billion smokers in the 21st century unless immediate and robust action is taken now.

These threats have motivated tobacco companies to redouble their efforts to undermine tobacco control policies. That's why exposing the tobacco industry's current strategies, techniques and tactics is more important than ever.

This report is unique in that it draws on a robust set of evidence to identify the major elements of the tobacco industry's strategies to systematically undermine tobacco control. This evidence shows that the tobacco industry repeatedly uses the same arguments and tactics in its efforts to prevent, delay and weaken effective tobacco control policies.<sup>1,5,6</sup>

This report outlines and illustrates these tactics using recent examples from all over the world. It is designed to help governments, tobacco control advocates and journalists pre-empt and counter tobacco industry policy interference by enabling them to predict, in advance, what the industry will do and to prepare accordingly. It also describes lessons learned and suggests actions to push back against the industry. There is a resource section that we will continue to expand.

Despite what it says, the tobacco industry remains part of the problem, not part of the solution to creating a healthier world. It is the vector of tobacco death and disease.<sup>2</sup> An industry that was serious about saving lives would simply stop production or, at the very least, stop marketing and promoting to children. It would also stop fighting against all effective tobacco control policies.<sup>3</sup>

# KEY TOBACCO INDUSTRY ARGUMENTS AND TACTICS

The tobacco industry aggressively opposes measures that are known to reduce smoking. This includes: tax increases on tobacco products; smoke-free laws (which ban smoking in public spaces); plain packaging; and graphic warning labels on cigarette packs. The industry prefers measures that have minimal or no effect on smoking prevalence, such as traditional health education in schools and voluntary bans on sales to minors.<sup>4</sup> This misdirection toward ineffective actions, in addition to the companies' relentless tobacco advertising, promotion and sponsorship (TAPS), significantly undermine tobacco control.

ARGUMENTS FROM THE TOBACCO INDUSTRY	DETAILS
<b>There will be no public health benefits.</b>	<ul style="list-style-type: none"> <li>• Policy is unnecessary.</li> <li>• Insufficient evidence to warrant the policy.</li> <li>• Policy will not work or will even increase smoking.</li> </ul>
<b>Policy will have widespread negative effects on the economy and society.</b>	<p><b>Economy</b></p> <ul style="list-style-type: none"> <li>• Policy will lead to loss of sales and jobs for retailers, farmers, hospitality industry, advertisers, printers etc.</li> <li>• Policy will lead to lost government tax revenue.</li> </ul> <p><b>Law enforcement</b></p> <ul style="list-style-type: none"> <li>• Policy will increase illicit trade and only smugglers will benefit.</li> <li>• Policy will criminalize the public (e.g. by increasing illicit purchases and tobacco thefts).</li> </ul> <p><b>The law</b></p> <ul style="list-style-type: none"> <li>• Policy infringes on intellectual property rights /trademarks/constitutional rights.</li> <li>• Policy will breach international trade agreements.</li> <li>• Public body is acting beyond their jurisdiction.</li> </ul> <p><b>Governance</b></p> <ul style="list-style-type: none"> <li>• Government is against free enterprise.</li> <li>• Government is a “nanny state.”</li> <li>• Policy will lead to a slippery slope effect.</li> <li>• Government is unreasonable/unaccountable.</li> </ul> <p><b>Social Justice</b></p> <ul style="list-style-type: none"> <li>• Policy is unfair to/punishes smokers.</li> <li>• Policy is regressive and unfair to poorer population groups.</li> </ul>

When the industry supports a measure, it is because that measure likely has little or no effect on reducing tobacco use. The more effective a tobacco control measure is, the harder the industry objects and obstructs. Research shows it repeatedly uses the same arguments and tactics to do this, across many countries and contexts.

Although the industry makes a multitude of misleading arguments when opposing tobacco control measures, as shown in Table 1, these can be condensed into two main arguments: 1) proposed policies will not lead to public health benefits, and 2) the policies will instead have various negative effects throughout society.<sup>5,6</sup> Of course, absent from industry messages are the health and economic benefits to individuals, society, governments and employers that result from tobacco control interventions.

**Table 1:** Misleading arguments the tobacco industry makes when opposing tobacco control measures. Adapted from Ulucanlar et al. (2016)<sup>5</sup>.

Research has identified nine main tactics the tobacco industry uses to influence public policy and make its arguments heard. These are the main focus of this report, and the following section focuses on these nine crooked tactics in detail, ending with recommendations for governments and nongovernmental organizations on reducing tobacco industry interference.



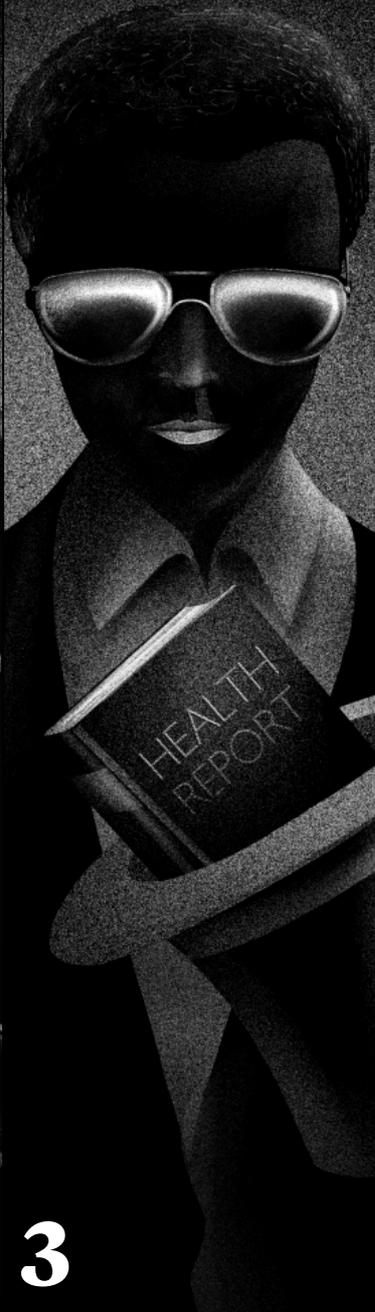
1

Builds alliances and front groups to represent its case—the “third party technique”



2

Tries to fragment and weaken the public health community



3

Disputes and suppresses public health information



4

Produces and disseminates misleading research and information

## CROOKED NINE

**The industry uses a range of tactics to make its arguments widely heard.**

By orchestrating support from diverse groups, including paid front groups, the industry gives a misleading impression of widespread support for its position, increasing the persuasiveness of its messages (tactic 1).

At the same time, it works to weaken the public health community (tactic 2) and its messages (tactic 3).

In addition to disputing the genuine evidence (tactic 3), it generates unreliable “evidence” to support its claims, and typically fails to disclose its links to, and funding of, this evidence (tactic 4).

The industry gains access to decision-makers and the policy process, often through hiring retired senior officials, or offering gifts, payments and even bribes, and also by making economic threats (tactic 5).



5

Directly lobbies and influences policy-making

6

Influences “upstream” policies, including trade treaties, to make it harder to pass public health regulations

7

Litigates or threatens litigation

8

Facilitates and causes confusion around tobacco smuggling, using it to fight tobacco control

9

Seeks to manage and enhance its own reputation in order to increase its ability to influence policy

It has secured influence on “upstream” policies, the rules and processes of policymaking, as well as trade treaties at the international level (tactic 6) in order to make it harder to pass public health policies.<sup>7</sup>

The tobacco industry threatens and uses litigation to prevent tobacco control measures (tactic 7). It also facilitates illicit tobacco trade to support its own misleading argument that increasing tax and implementing other tobacco control policies will increase smuggling (tactic 8).

Finally, the tobacco industry works to enhance its credibility, win access to policymakers and influential organizations, and make it appear as though the industry is an important stakeholder (tactic 9).

**The tobacco industry often uses many tactics in any one situation, and the tactics often complement and reinforce each other, as our case studies show.**

TACTIC 1

**Builds  
alliances and  
front groups  
to represent  
its case—the  
“third party  
technique”**



## TACTIC 1

**Builds alliances and front groups to represent its case—the “third party technique”**

**As the tobacco industry becomes less and less trusted, it increasingly has others present its case. The apparent aim is both to give the impression of widespread support for the industry’s position and to present its arguments through organizations and individuals that are seen as more credible than, and in many instances appear independent from, the tobacco industry.**

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**THE INDUSTRY WILL:**

**Build networks within the industry to lobby on its behalf.** Examples of such networks include tobacco company employees, other tobacco companies, and tobacco trade associations.

**Form alliances with others in the tobacco supply chain,** e.g. tobacco farmers and growers, retailers and members of the hospitality industry, who are likely to garner greater sympathy than the industry would when they oppose tobacco control measures.

**Secure support from diverse external organizations,** e.g. women’s groups, welfare organizations, trade unions and diplomatic missions (typically by making financial contributions to or establishing joint projects with these organizations). Recruitment of these organizations is sometimes done via intermediaries where an approach from the tobacco industry would be seen as unpalatable.

**Operate via established third party “messengers,”**<sup>8</sup> individuals or existing organizations the industry recruits to act on its behalf while giving the impression of independence. These include business associations, advertising and public relations companies, law firms, think tanks, retail associations and audit companies.

**Create new front groups<sup>9</sup> where none exist.** Such groups even include industry-funded youth tobacco-control organizations.<sup>10,11</sup> A special type of front group is a fake “grassroots” organization (or “astroturf” group)—in which citizens are sponsored and organized to oppose specific legislation or tobacco control generally (e.g., smokers’ rights groups, The Alliance of Australian Retailers, National Smokers Alliance).<sup>12</sup>

**Build long-term relations with media owners, managers and journalists to enable greater use of the media.**

The use of front groups and third parties has increased since the advent of the World Health Organization’s Framework Convention on Tobacco Control (WHO FCTC ) and Article 5.3 . Sometimes the number of organizations involved can be overwhelming.<sup>13,14</sup> In the U.K., for example, 82 organizations with links to the tobacco industry were involved in lobbying against plain packaging legislation.<sup>15,16</sup>

#### EXAMPLE 1

##### **The industry made extensive use of front groups to lobby for six years to delay and prevent tobacco control legislation in Poland and to influence its content.<sup>17</sup>**

Between 2006 and 2012, there was extensive tobacco industry interference with an amendment to the 1995 law Protection of Public Health Against the Effects of Tobacco Use in Poland. In addition to direct lobbying and various other tactics, the tobacco companies acted through a range of third party groups, including tobacco industry associations as well as organizations financed by the industry (e.g. Business Centre Club). The industry front groups successfully inserted themselves into the policymaking process, using lobbyists to invite government officials to meetings. In the Ministry of Finance alone, there were at least 30 meetings between government officials and industry representatives between 2006 and 2012.<sup>17</sup>

**Result:** There was a significant delay in the legislation coming into effect, which allowed the industry to continue filling its coffers with sales revenue while simultaneously causing harm to Polish citizens for nearly a decade. In 2014, the Polish Ministry of Health provided a grant to support the country’s first campaign to counter the tobacco industry. The campaign was modeled on the Truth Campaign in the United States, which has proved to be effective, and used tools from the National Social Marketing Centre in the U.K.<sup>18</sup> The amendment was finally revised and consolidated in February 2015.<sup>19</sup>

#### EXAMPLE 2

##### **The industry created the “Alliance of Australian Retailers” to oppose plain packaging.**

The Alliance of Australian Retailers (the “Alliance”) is a tobacco industry front group that was financed by Philip Morris International, Imperial Tobacco and British American Tobacco. It was set up to oppose the government’s introduction of plain packaging in Australia, and operated by the Melbourne-based public relations firm The Civic Group (TCG). Internal tobacco industry and Alliance documents that were leaked to the media revealed that the Alliance was set up and run by the tobacco industry to lobby against plain packaging. This is an example of astroturfing, a campaign pretending to be a grassroots initiative, while hiding its true origin, goal and funding.<sup>12,15,20</sup>

#### EXAMPLE 3

##### **Diplomatic influence was used to challenge Pakistan’s proposed graphic warnings on cigarette packs.**

In 2015 the British High Commissioner in Pakistan attended a lobbying meeting with the government, where British American Tobacco attempted to persuade the government of Pakistan to reverse legislation that would mandate large graphic health warnings on cigarette packs.<sup>21</sup> This meeting violated the WHO FCTC, a global treaty. It also breached 2013 Foreign and Commonwealth Office guidelines, which forbid diplomats from supporting the tobacco industry.<sup>22</sup>

**Result:** A national workshop was held to expose tobacco industry interference with the law. The government framed the justification for the larger warnings as its obligation under WHO FCTC . After considerable advocacy effort, the government of Pakistan implemented new, larger pack warnings in June 2019.

## TACTIC 1

**Builds alliances and front groups to represent its case—the “third party technique”**

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### EXAMPLE 4

**The industry promoted Codentify and undermined the Illicit Trade Protocol via an increasingly elaborate set of front groups<sup>23</sup>**

The WHO FCTC Illicit Trade Protocol requires a global track and trace system in which cigarette packs will be marked with unique, secure identifiers, to reduce tobacco smuggling. Given the tobacco industry’s historical involvement in tobacco smuggling (see tactic 8), the protocol stipulates that track and trace “shall not be performed by or delegated to the tobacco industry.” Yet leaked documents show that the major tobacco companies have been working collaboratively through an increasingly complex set of front groups and third parties to promote Codentify, their preferred track and trace system to governments. Codentify was developed by the tobacco industry, and it has raised major concerns.<sup>24,25</sup>

The Digital Coding and Tracking Association (DCTA) was the first front group set up by the four multinational tobacco companies to promote Codentify to governments, while giving the impression of independence.<sup>26</sup> Since DCTA was exposed, a more elaborate set of third parties has been used to promote Codentify, including companies claiming to be independent despite clear tobacco industry links. For example, in 2012, when Kenya held a tender for a track and trace system, BAT did not bid for the service directly. Instead, it used a Danish-based company, FractureCode, to promote Codentify.<sup>24</sup>

In addition, the industry has been funding conferences, training, research, and international police and anti-corruption organizations to help establish a network of support for its misleading position on tobacco smuggling and the illicit trade protocol.<sup>23,27</sup>

### EXAMPLE 5

**Philip Morris funded “Foundation for a Smoke-Free World” with USD \$1 Billion over 12 years.<sup>28</sup>**

To try to convince the world it is committed to a “smoke-free future,” Philip Morris International established the Foundation for a Smoke-Free World in 2017 with the purported aim of improving “global health by ending smoking in this generation.” It is exclusively funded by PMI, with a massive budget of USD \$1 billion over 12 years.

The foundation is an integral part of PMI’s corporate affairs strategy and entirely consistent with PMI’s long history of manipulating the debate on smoking and health and using research funding to delay government action. It has already commissioned research and polls, approached many policy influencers and donated to organizations such as the Centre of Research Excellence: Indigenous Sovereignty & Smoking in New Zealand.<sup>29</sup> Its entire premise, and the marketing strategy behind it, is based on portraying itself as a company that is committed to health, even while it continues to market and sell deadly products.

**EXAMPLE 6****Philip Morris International woos the media.**

In 2018, Philip Morris International (PMI) paid for the airfare and accommodations of journalists from around the globe, as well as social media influencers, for the launch of its latest “heat-not-burn” tobacco products—the IQOS 3 and the IQOS Multi in Japan. On the last night of the event, PMI threw a large launch party at an ancient Japanese garden, offering attendees drinks, food, music and IQOS devices.<sup>30</sup>

In the Philippines, Philip Morris Fortune Tobacco Corp Inc. (PMFTC Inc.), PMI’s local subsidiary, organizes an annual journalism competition called the Bright Leaf Award. This competition is specifically for agriculture journalism from which PMFTC Inc. gets its stock of feature stories and photos on tobacco growing to promote in the local print media year-round. The top prize for this competition includes cash (about USD \$950), an iPad and a four-day paid holiday to an Asian destination. In 2016, the winners, PMFTC Inc.’s officials, contest judges and media were taken to Ha Long Bay in Vietnam.

In the U.S., tobacco industry documents revealed that PMI planned to try and influence journalists by funding the National Journalism Center, a U.S. school of journalism. It sought to place favorable stories in the press, expand its journalism network, and design innovative strategies to communicate its position on environmental tobacco smoke through education programs targeting policymakers and the media.

TACTIC 2

**Tries to  
fragment and  
weaken the  
public health  
community**



## TACTIC 2

Tries to fragment and weaken the public health community

**As tobacco control has become a mainstream public health issue, the tobacco industry has increasingly tried to undermine the strength and legitimacy of the public health community.**

THE INDUSTRY AND ITS ALLIES WILL:

**Distract public health resources**, e.g. promote diversionary issues that tobacco control advocates must address at the same time as the policy of interest, or delay government departments with legally binding requests for information.

**“Neutralize” organizations** that might otherwise support tobacco control measures by making strategic donations.

**Identify and isolate key individuals and organizations and undermine their reputations.**

EXAMPLE 1

**The industry lodged multiple information requests in Australia.**

In 2011, transnational tobacco companies lodged 52 freedom of information requests with Australian health authorities over plain packaging, in an unsuccessful effort to overwhelm the government’s resources. The health department secretary said the department was being “swamped” with Freedom of Information requests as part of a deliberate campaign by cigarette manufacturers, and that this had cost it “an awful lot.”<sup>31,32</sup>

**Result:** After several years and considerable expense, the Australian government successfully fought off challenges via the constitution, a bilateral treaty and the World Trade Organization to become the first country in the world to adopt plain packaging (with no use of tobacco logos or designs allowed on cigarette packs).

EXAMPLE 2

**The industry attempts to neutralize U.N. agencies.**

INTERNATIONAL LABOUR ORGANIZATION

The industry has made donations to U.N. agencies including the International Labour Organization (ILO).<sup>33</sup> The Eliminating Child Labour in Tobacco Growing Foundation, which is fully funded by the tobacco industry, contributed USD \$5 million to the ILO, and Japan Tobacco International contributed \$10 million.<sup>34</sup>

**Result:** It took an international campaign to draw attention to the issue.<sup>35</sup> The decision on accepting industry funding was postponed three times by the governing body before a decision was finally made in November 2018 not to renew contracts with industry.

#### UNICEF

The tobacco industry manipulated UNICEF from 2003 until at least 2016, during which time UNICEF's focus on children's rights to clean air and lungs was reduced, likely resulting in more cases of asthma, ear infections and deaths.<sup>36</sup>

After UNICEF loosened its corporate engagement guidelines in 2003, tobacco companies successfully engaged with the organization directly and via front groups, including the Eliminating Child Labour in Tobacco Growing Foundation. This was part of an overall tobacco industry strategy to improve its corporate image, infiltrate the U.N., and weaken global tobacco control efforts. In 2003, UNICEF served as an adviser to a tobacco industry front group that mounted a campaign purportedly to prevent child labor in the Philippines.<sup>36</sup> In 2010, the UNICEF office in Kazakhstan accepted money from Philip Morris International to work on child labor issues.<sup>36,37</sup> In 2015, UNICEF published a report, "Obligations and Actions on Children's Rights and Business," with Japan Tobacco International as a contributor. The report does not mention tobacco.<sup>36,38</sup>

#### EXAMPLE 3

##### **The industry undermined the World Health Organization.**

The 2000 WHO Report of the Committee of Experts on Tobacco Industry Documents stated, "evidence from tobacco industry documents reveals that tobacco companies have operated for many years with the deliberate purpose of subverting the efforts of WHO to control tobacco use. The attempted subversion has been elaborate, well-financed, sophisticated and usually invisible."

Documents in this report show that tobacco companies fought WHO's tobacco control agenda by pitting U.N. agencies against WHO, seeking to convince developing countries that WHO's tobacco control program was a "first world" agenda and attempting to reduce budget for scientific and policy activities.<sup>39</sup>

TACTIC 3

**Disputes and  
suppresses  
public health  
information**



## TACTIC 3

**Disputes and suppresses public health information**

**The tobacco industry discredits, undermines and tries to suppress public health information about the harms of tobacco products and effective tobacco control interventions.**

**THE INDUSTRY WILL:**

**Hire “experts” (researchers, accounting firms, law firms) to criticize public health research and information to diminish its impact and cause confusion.**

**Attempt to suppress publication of public health evidence, by seeking court injunctions on the grounds that the study is “misleading and deceptive.”**

**Try to stop public health information from reaching the press, by interfering with journalists’ stories.**



**EXAMPLE 1**

**Industry-funded harm reduction researchers label tobacco control research “junk science”**

The Foundation for a Smoke-Free World (FSFW), which claims to be independent from the tobacco industry but remains funded solely by Philip Morris International to the tune of USD \$80 million a year, has established several “Centres of Research Excellence” that will purportedly conduct research on alternative nicotine products, including e-cigarettes and heat-not-burn products.<sup>40</sup> One such center is based in New Zealand and led by Dr. Marewa Glover. In August 2019, Dr. Glover presented a verbal submission to the New Zealand Health Select Committee in which she opposed a proposal to prohibit smoking while traveling in cars with children. She stated that “the scientific studies have not proven that exposure to cigarette smoke in the car causes disease” and went on to say the evidence that suggests cigarette smoke exposure in cars could be toxic to children was “junk science.”<sup>41</sup>

Professor Riccardo Polosa, another researcher whose “Centre of Excellence for the Acceleration of Harm Reduction” was set up with funding from the FSFW, reportedly claimed that “junk science is escalating” during a global harm reduction forum in June 2019.<sup>42</sup> His statement was made in relation to the “widespread methodological flaws and lack of rigor in studies that are deployed against tobacco harm reduction.”<sup>42</sup> The harm reduction forum was organised by a company funded by the FSFW, Knowledge Action Change, which has itself labeled tobacco control evidence as “flawed science and misleading public information,” in a report on harm reduction in 2018.<sup>43</sup>

**EXAMPLE 2****British American Tobacco misrepresents and contests peer-reviewed evidence.**

The tobacco industry has repeatedly and misleadingly contested the evidence for plain packaging, but research shows clearly that in doing so it has fundamentally misrepresented the evidence base. For example, it repeatedly misquoted studies distorting the main messages and paid “experts” with little experience in the field who used “mimicked scientific critique” to undermine public health evidence. They attempted to find weaknesses in each individual study rather than recognizing the consistency of the body of evidence as a whole.

For instance, British American Tobacco (BAT) commissioned Professor Kip Viscusi from Vanderbilt University Law School in the U.S. to write a report that was submitted in the Post-Implementation Review of Plain Packaging undertaken by Australia in 2015, and was also used by BAT in 2016 to oppose plain packaging proposals in South Africa. Contrary to peer-reviewed evidence suggesting the effectiveness of plain packaging for reducing smoking, the BAT-commissioned report concluded that the intensity and frequency of smoking increased after the implementation of plain packaging in Australia.<sup>76</sup>

**EXAMPLE 3****The industry tried to discredit and prevent dissemination of health warning research.**

In Australia in the 1990s, the Centre for Behavioural Research in Cancer (CBRC) was commissioned by a governmental committee to investigate which health warnings were likely to be most effective with youth. The report recommended prominent on-pack warnings including “Smoking kills” and “Smoking is addictive.” The industry commissioned a series of critiques of the CBRC report through its lawyers, and subsequently filed legal proceedings against the report’s authors seeking declaration that the report was misleading and deceptive and seeking an injunction to prevent its further distribution.<sup>44</sup>

**EXAMPLE 4****The industry suppressed media coverage to stymie progress in Lebanon.**

Pressure on the media from the tobacco and advertising industry is thought to have been instrumental in ensuring the press did not cover tobacco control issues in Lebanon, thus stifling progress.<sup>45</sup> It is reported that pressure by advertising agencies that were receiving funding from tobacco companies led a television presenter to be threatened with job loss if the Minister of Public Health was asked about tobacco issues.

**TACTIC 4**

**Produces and disseminates misleading research and information**



## TACTIC 4

Produces and disseminates misleading research and information

**As scientific evidence revealed more and more harmful effects of smoking, amounting to tens of thousands of research papers, the industry countered by funding its own scientific studies. While historically such efforts focused on disputing the harm from tobacco, more recently the industry has been funding and producing misleading “research” and information focused on countering effective public health policies.**

## THE INDUSTRY WILL:

**Produce, sponsor and disseminate misleading research and information, lacking sound scientific methods.**

**Hide industry links to misleading research to increase its credibility and use third party spokespeople to present misinformation to the media.**

**Gather and use intelligence on political and nongovernmental organization activities to potentially undermine their activities.**

**Conduct public opinion surveys that are stacked to support its positions.**

**Use this so-called evidence to exaggerate the economic importance of tobacco to governments, employers, and the farming and hospitality industries.**

## EXAMPLE 1

**Japan Tobacco International produced misleading “public opinion surveys” to discourage plain packaging in South Africa.**

In July 2019, Japan Tobacco International (JTI) funded and co-authored a report which it dubiously claimed constituted a national survey of the South African public, and which it used in several media articles as evidence that the public did not support plain packaging.<sup>46</sup> The report concluded that “the South African public’s opinion shows a high percentage agreement that they believe that plain packaging is: unnecessary; a poor use of government resources; not the most important or effective policy that government should pursue if it wants to reduce youth smoking.”

JTI claimed the South African survey was conducted by an independent research company, Victory Research. However, as researchers from the Economics of Tobacco Control Project (ETCP) at the University of Cape Town observed—the report bears a striking resemblance to an earlier UK report on plain packaging, also funded by JTI and carried out by Kantar TNS.<sup>47</sup> This resemblance raises doubts over whether either report was written independently of JTI. The ETCP researchers stated, “It is disingenuous to say that a sample of 1,014 people is ‘nationally representative’ ” and highlighted other flawed aspects of the research, such as asking biased and leading questions that likely led respondents to answer in a desired way.<sup>48</sup>

**EXAMPLE 2****The industry and its allies falsely threatened that economic losses would follow smoke-free legislation in Hong Kong**

In Hong Kong, in 2001, while a ban on smoking in restaurants and bars was under consideration, KPMG<sup>49</sup> conducted a survey which concluded that if the ban were enacted:<sup>50,51</sup>

- Spending would fall by USD \$1 billion per year in restaurants, cafes, bars, and food and beverage outlets of hotels.
- There would be a potential loss of 21,500 jobs in the hospitality trade.
- Restaurant receipts would fall by 9.2%.

**Result:** Two years following the ban, in 2007, tax returns showed that expenditure at smoke-free restaurants had increased by over 30%.<sup>52</sup>

**EXAMPLE 3****The industry threatened to put farmers' livelihoods in Malawi at stake**

The tobacco industry produces misleading employment and tax statistics to maintain that tobacco farming is of crucial importance to farmers and to the economy of many countries. These statistics are seen as compelling by many politicians and civil servants as it would be politically unpopular and seem to put farmers' livelihood at risk. For instance, the chief executive

officer of Malawi's Tobacco Control Commission stated in 2012, "The latest proposals by the World Health Organization Framework Convention on Tobacco Control to stop farming of the crop could potentially affect about 2 million livelihoods in Malawi and decide the fate of an entire nation struggling with a sputtering economy."<sup>53</sup>

**Result:** The reality is that Malawi, despite an economy based on agriculture such as tobacco farming, is the world's third poorest country. Most tobacco farmers live in poverty. In 2016, the average profit per acre of tobacco farmers was USD \$79, less than the average in the agricultural sector of USD \$351.<sup>54</sup>

**TACTIC 4****Produces and disseminates misleading research and information**

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**EXAMPLE 4****In China, the industry wrongly claims that farmers will lose money if they switch to growing other crops.**

The Chinese tobacco monopoly claims that millions of farmers and other tobacco workers depend upon tobacco farming.

**Result:** The reality is shown by a four-year pilot crop substitution project in Yuxi, Yunnan Province, the heart of tobacco growing in China. Beginning in 2008, 458 farm families were given the resources to switch from growing tobacco to other products. By 2010, the annual income of the farmers was 21% to 110% higher per acre than those of farmers who planted tobacco.<sup>55</sup>

**EXAMPLE 5****The industry funds research to produce evidence exaggerating the smuggling problem and opposing tobacco control policies.**

In Asia alone, Philip Morris International (PMI) has sponsored, and continues to sponsor, research on illicit trade in tobacco in at least 16 countries to produce “evidence” that tax increases will result in smuggling. This information is then used to dissuade governments from adequately increasing tobacco taxes. These industry reports also recommend that governments work with tobacco companies to address illicit trade, which is in direct conflict with WHO FCTC. The research is conducted in accordance with specific terms of reference agreed between PMI and the researchers. Findings of the research are then disseminated through road shows and press conferences fronted by former senior government officials, recruited as consultants.<sup>56</sup>

**Result:** The WHO FCTC Convention Secretariat issued a “Note Verbale” to warn countries and regions that have ratified the FCTC about the authors of the reports in Asia, the International Tax and Investment Center, and to reject the tobacco industry’s interference in addressing tobacco smuggling problems.<sup>57</sup> After a concerted international campaign by civil society exposing the flawed methodology of the research and debunking the findings, in 2017 the International Tax and Investment Center cut its ties with the transnational tobacco companies.<sup>58,59</sup> Oxford Economics, co-authors of the reports, still continues to receive PMI funding to conduct such research in Asia.

# PMI Impact Case Study

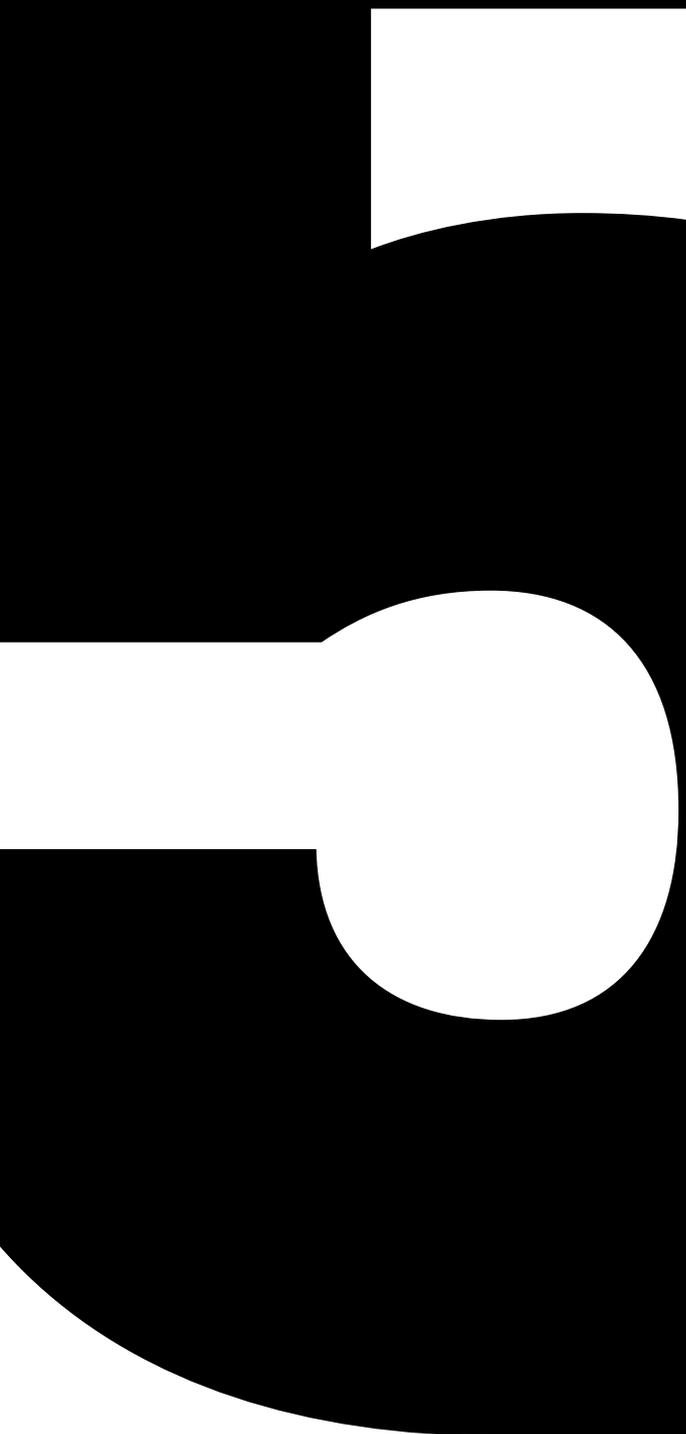
**P**MI IMPACT is a \$100 million funding initiative launched by Philip Morris International (PMI) in 2016. It describes itself as “a global initiative to support projects against illegal trade and related crimes.”<sup>60</sup> Successful funding applicants can receive between USD \$100,000 and USD \$1.5 million for projects aimed at better understanding illicit trade, awareness-raising educational activities, and the development of technological solutions to “facilitate anti-illicit trade efforts.” The first 32 recipients of funding (totaling approximately USD \$28 million) announced in September 2017 include KPMG, Oxford Economics, Transcrime and others previously commissioned by PMI to produce misleading, widely criticized reports on illicit trade that were favorable to the transnational tobacco companies (tactic 4). As such, PMI Impact will undoubtedly play a key role in increasing the volume of industry-favorable research on the illicit tobacco trade (tactic 4).

In addition, however, PMI Impact is being used both to build the the tobacco industry’s reputation in this field (tactic 9) and create a network of alliances and organizations supporting it and its messages (tactic 1). For example, its Expert Council includes individuals closely linked to multiple U.N. agencies and Interpol. In September 2017, PMI IMPACT and the Financial Times held a joint event

titled Combating Illicit Trade: Progress, Challenges and Collaborative Solutions. The conference included panel discussions, dialogues, presentations and interviews, including talks about the projects accepted through PMI IMPACT’s first funding round, and an address from PMI’s Chief Executive Officer, André Calantzopoulos. Other speakers included members of PMI IMPACT’s Expert Council, academics, and representatives of the EU Commission, Europol, HMRC (the U.K. revenue and customs authority), the Organization for Economic Cooperation and Development, the World Customs Organization, World Trade Organization, and U.N. Office on Drugs and Crime. PMI has used its former membership in the U.N. Global Compact to promote PMI IMPACT and attempted to portray this association as evidence that PMI is in collaboration with the U.N. and supports “broader U.N. goals.” Such efforts are entirely consistent with leaked industry documents that outline how the tobacco industry needed to reach these “key influencer stakeholder groups” in order to “proactively shape track and trace regulation.”<sup>21</sup> Indeed, the stakeholders listed in the leaked documents included the World Customs Organization, Interpol and others attending this meeting. In short, the evidence suggests that PMI Impact is helping the tobacco industry create a powerful network that promotes its position on illicit tobacco trade.

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U.N. Global Compact to promote PMI IMPACT  
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TACTIC 5



**Directly lobbies  
and influences  
policymaking**



**TACTIC 5****Directly lobbies  
and influences policymaking**

**In spite of being expressly forbidden under WHO FCTC Article 5.3, the industry seeks to directly interfere in tobacco control policymaking processes and structures, and to influence key decision-makers, in an attempt to defeat, delay or weaken tobacco control policy. The industry’s ability to influence directly (rather than via third parties—see Tactic 1) depends on its reputation and thus varies based on time and place.**

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**THE INDUSTRY WILL:****Secure access to legislative bodies and governments**

- Build and use a large pool of professional lobbyists, co-opted politicians and public figures to engage policymakers in discussions about industry-led solutions.
- Enable and support conflicting roles (e.g. an academic who acts both as tobacco industry consultant and policy adviser) and “revolving doors” (e.g., movement of people between roles as industry employees and legislators and bureaucrats).

**Incentivize and threaten; and**

- Make payments to political parties, legislators, government ministers and political candidates; as well as paying for entertainment, travel, meals and other hospitality.
- Use threats that would have economic consequences, e.g. to withdraw from a previously agreed investment deal, withhold advertising revenue or make compensation claims for loss of brand rights.

**Become a key part of the legislative or decision-making process.**

- Recruit politicians or other actors within the policy process to make industry arguments and promote the industry’s position.
- Place tobacco industry employees (or their allies) on relevant governmental committees and working groups.

**EXAMPLE 1****British American Tobacco Uganda (BAT Uganda) directly threatened economic damage in response to Uganda’s draft tobacco control bill.**

In 2014, BAT Uganda mounted a heavy lobbying campaign warning Members of Parliament (MPs) that replacing the existing Tobacco Act threatened the livelihoods of thousands of farmers.<sup>61</sup> In a letter to the parliamentarian sponsoring the 2014 Uganda Tobacco Control Bill (UTCB), BAT Uganda said it would no longer do business with the 709 farmers in the sponsoring MP’s constituency that it normally buys from, claiming the bill—and a related plan to raise tobacco taxes—had rendered the arrangement “increasingly less economically viable.”<sup>62,63</sup> The letter, intended to threaten the MP, concluded by reminding the MP that the company is “requesting the government to reconsider the issues noted.” Attached to the letter was a list of the names of the 709 tobacco farmers in the MP’s constituency who would no longer receive the tobacco company’s support as a result of the MP’s sponsorship of the tobacco bill.

This was just part of BAT’s attempts to lobby against the Ugandan Bill. For example, local media sources also claim BAT met directly with relevant MPs to lobby them to oppose

the bill with claims they were “treated to a cocktail dinner” and given “pocket allowances.”<sup>63</sup> BAT was also accused of blackmail by the MP responsible for drafting and pushing the bill through the parliamentary process.<sup>61</sup>

**EXAMPLE 2****Gutka producers bribed government officials in India to weaken tobacco control measures.**

Reporters uncovered bribes totaling nearly USD \$6 million from gutka (flavored chewing tobacco) producers to several top state officials in the southern state of Tamil Nadu, reportedly being used to persuade law enforcement to allow gutka sales in Chennai, where they are banned.<sup>71,72</sup>

**EXAMPLE 3****Industry makes political donations in Australia.**

Anti-corruption authorities caught a USD \$400,000 tobacco industry donation to the New South Wales Labor Party in July 2017, even though the party had banned tobacco donations in 2004.

**EXAMPLE 4****Brands disobey laws on pictorial health warnings in Lao PDR.**

Imperial Brands–controlled Lao Tobacco Company Ltd. and Lao-China Hongta Good Luck Company Ltd. have thrice failed to comply with the Pictorial Health Warnings Regulation of 2016.

**TACTIC 5****Directly lobbies and influences policymaking**

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**EXAMPLE 5****Japan Tobacco Inc. is involved in the legislative or decision-making process in Japan.**

There is a strong association between Japan Tobacco Inc., the government (through 33% ownership) and policymakers, particularly the Ministry of Finance, which enables Japan Tobacco Inc. to intervene in policy development. Among parties to the WHO FCTC, Japan is noted to have weak tobacco control measures, and still allows tobacco advertising. The Japanese finance minister was reported to have questioned whether there is a connection between smoking cigarettes and lung cancer.<sup>64</sup>

**EXAMPLE 6****There is a “revolving door” for tobacco industry executives and politicians.**

The “revolving door” term describes instances where politicians or civil servants take up positions as consultants for the private sector such as tobacco companies, where their area of former public service could serve the interests of the private company. Similarly, the revolving door also refers to former corporate employees who accept positions in the government, enabling them to have influence over regulations in the sector they once worked in. For example, Mueen Afzal worked in Pakistani civil service from 1964 to 2002 with his positions including Finance Secretary (1996–1998) and Secretary General Finance and Economic Affairs to the Government (1999–2002). After his retirement in 2002, he joined British American Tobacco Pakistan (also known as the Pakistan Tobacco Company) in 2003 and became Chairman and Non-Executive Director in 2007.<sup>65</sup>

Such actions arguably violate the World Health Organization’s Framework Convention on Tobacco Control’s Article 5.3, which aims to protect public health policies from commercial and other vested interests of the tobacco industry.

**EXAMPLE 7****Philip Morris International sets up global corporate affairs functions to coordinate lobbying worldwide.**

Philip Morris International (PMI) alone has assembled a vast apparatus to counter the implementation of the global FCTC treaty. According to a November 2015 internal email, PMI has one of the world’s largest corporate lobbying arms, with 600 corporate affairs executives. That army, alongside more than USD \$7 billion in annual net profit, gives PMI the resources to overwhelm WHO and the signatories of the WHO FCTC.

The WHO FCTC is overseen by only 19 staff at a secretariat office hosted by WHO in Geneva. The secretariat spends, on average, less than USD \$6 million a year. Even when buttressed by anti-smoking groups, the secretariat’s capacity is dwarfed by the industry. Its current annual budget for supporting the treaty clause on combating tobacco company influence is less than USD \$460,000.<sup>66</sup> WHO FCTC reported in 2016: “[...] the tobacco industry continues to be the most important barrier in the implementation of the Convention.”<sup>67</sup>

**EXAMPLE 8****Philip Morris International undertook enormous lobbying efforts to undermine the EU Tobacco Products Directive.**

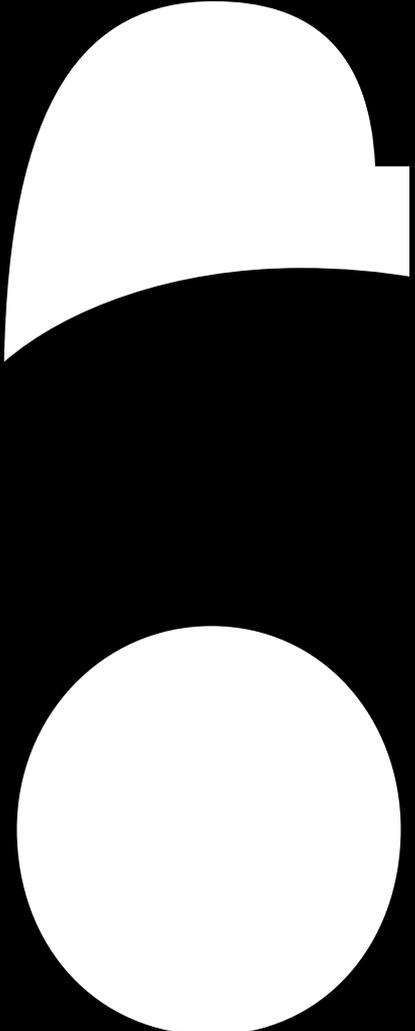
Similarly, in its attempts to block and weaken the 2014 EU Tobacco Products Directive (TPD), PMI alone employed more than 160 lobbyists and spent €1.25 million on lobbying to subvert the TPD.<sup>68,69</sup> At least seven tobacco industry lobbyists were former EU politicians or civil servants.<sup>70</sup> By contrast, Brussels-based health advocates initially had just five full-time equivalent positions working, with a slight increase when the proposal was published in December 2012. One Member of European Parliament (MEP) likened it to a David and Goliath battle: “If you see who is fighting on the left-hand side and who is fighting on the right-hand side ... then you get a shock. It is David and Goliath. It’s unbelievable.”

The TPD places limits on the sale and merchandising of tobacco products in the EU.

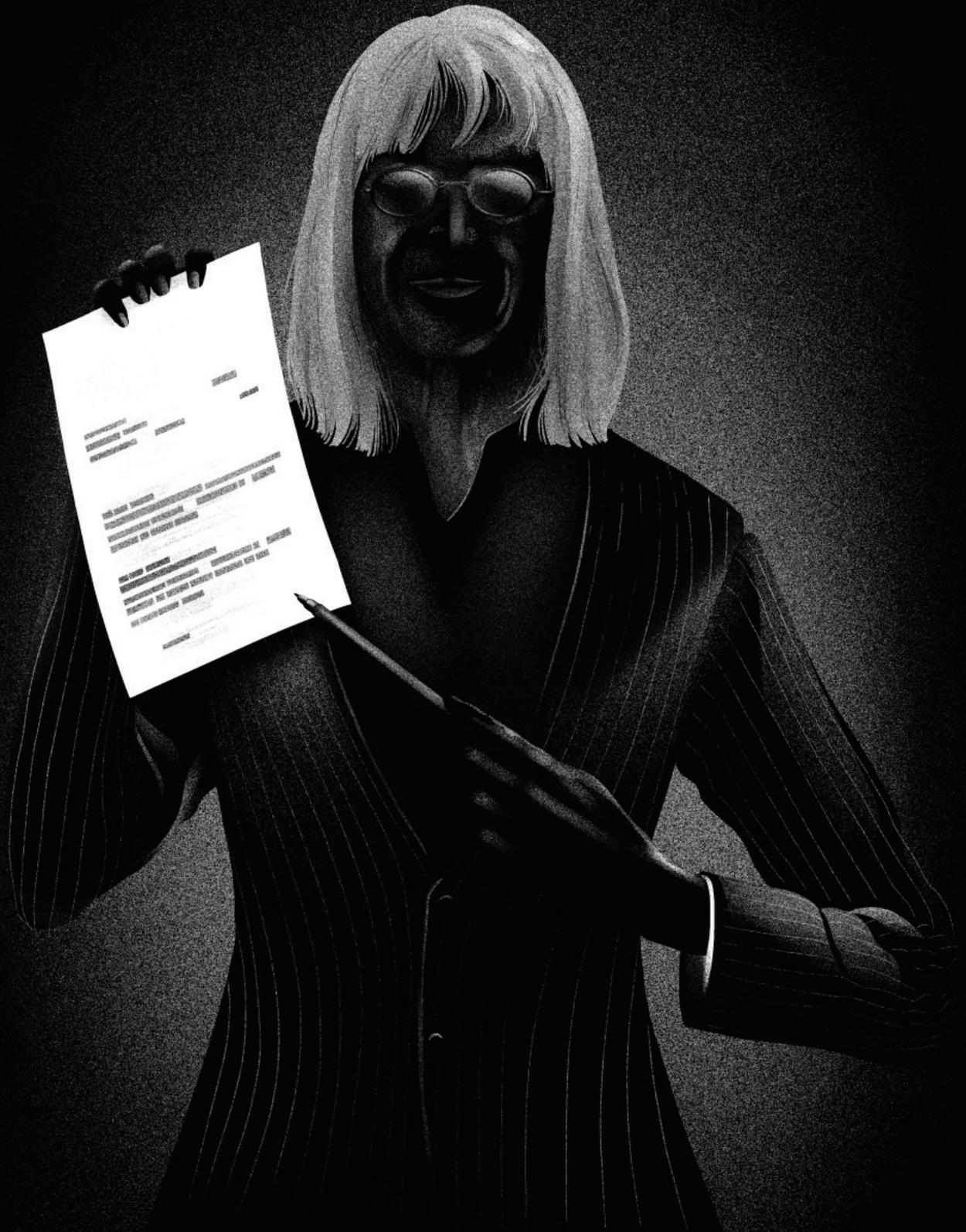
PMI lobbyists were so numerous they were able to individually approach over one-third (257) of MEPs, having meticulously assessed each MEP’s position and sensitivity to pro-tobacco arguments. MEPs were often approached in their national constituencies where there were fewer staff to remind them of EU protocol. In addition to this direct lobbying, third parties (tactic 1) were employed to approach health-friendly MEPs, often hiding their tobacco industry links.

**Result:** Despite these efforts and the European Commission’s repeated failure to apply Article 5.3, although delayed and slightly weakened, the TPD was ultimately successfully enacted.

TACTIC 6



**Influences  
“upstream”  
policies to make  
it harder to pass  
public health  
regulations**



## TACTIC 6

Influences “upstream” policies to make it harder to pass public health regulations

**The tobacco industry has worked to establish burdensome high-level (or “upstream”) policymaking rules and processes, and attempted to shape the content of trade and investment treaties in order to make it harder to pass public health policies. The industry then uses these policymaking or investment rules to influence, weaken or block policy.<sup>73,74</sup>**

## THE INDUSTRY WILL:

**Ensure that proposed public health policies get subjected to impact assessment and stakeholder consultation before they can be agreed on (via “Better Regulation,” “Smart Regulation” or similar initiatives).**

**Use the impact assessments and consultations to submit highly misleading evidence and claims about the “costs” of policies to government.<sup>75,76,77</sup>**

**Flood stakeholder consultations with responses to give a misleading impression of the amount of opposition to the policy.**

**Influence the content of trade and investment treaties, e.g., to protect intellectual property rights and make it harder to pass packaging legislation and easier to challenge it via Investor State Dispute Settlement arrangements.<sup>77</sup>**

## EXAMPLE 1

**British American Tobacco helped change EU policymaking rules.**

During the 1990s, British American Tobacco (BAT) helped drive a lobbying campaign that led to binding changes to the EU Treaty. These changes meant that all EU policies were subsequently subjected to a mandatory and business-oriented form of impact assessment. The particular type of impact assessment required by the EU emphasizes cost-benefit analysis, which favors corporate interests by highlighting economic impacts and failing to adequately assess health impacts. This makes public health and tobacco control policies much harder to pass, and instead increases the likelihood that the EU will adopt policies that advance industry interests.<sup>75,77</sup>

## EXAMPLE 2

**The industry tried to hijack South Africa’s socioeconomic impact assessment process.**

As of October 2015, all draft policies in South Africa required a socioeconomic impact assessment to be signed off on by the Cabinet. In 2016, the Economics of Tobacco Control Project (ECTP) at the University of Cape Town undertook the Socio-Economic Impact Assessment (SEIA) on the Draft Control of Tobacco Products and Electronic Delivery Systems Bill on behalf of the National Department of Health. In 2016, the industry-led South African Tobacco Institute wrote repeatedly to politicians expressing its concern over the Economics of Tobacco Control Project’s mandate as convenor

of the impact assessment. The Tobacco Institute threatened to strongly contest the outcome if it did not reflect “the socioeconomic impact on all stakeholders across the tobacco value chain,” and ultimately delayed the socioeconomic impact assessment process by requesting an extension.<sup>78</sup>

### **EXAMPLE 3**

#### **The industry attempted to influence content of trade and investment treaties.**

Evidence suggests the tobacco industry has attempted to influence the content of trade and investment treaties, such as the Transpacific Partnership Agreement and the Transatlantic Trade and Investment Partnership, in ways that would have made it easier to challenge tobacco control policies. Bilateral investment treaties such as these enhance intellectual property rights and, in contrast to most current major economic agreements that only allow governments to lodge formal complaints, the treaties give corporations legal standing to directly challenge governments’ regulation through investor state dispute settlement arrangements.<sup>79, 80, 81</sup> This would make it harder to pass and easier to challenge public health policies.

The industry uses the existence of these policies to exert a “chilling effect”—detering countries, particularly those with few resources, from implementing tobacco control policies by arguing that they contravene trade and investment treaties and will lead to challenges (see Tactic 7). Documents suggest that this “chilling” argument was developed as a deliberate strategy in the 1990s and has been successfully used to deter policy implementation despite consistent legal advice to the industry that such arguments did not hold water.<sup>82</sup>

### **EXAMPLE 4**

#### **Indonesia’s government signed a memorandum of understanding with Philip Morris International.**

In 2015, the government of Indonesia signed a memorandum of understanding with PMI worth USD \$1.9 billion for investments in factory expansion from 2016 to 2020.<sup>83</sup> PMI sees its local company Sampoerna as its “crown jewel,” where “we have huge opportunities to grow our business.”<sup>84</sup> Indonesia’s policy is to increase tobacco production and protect the industry. Indonesia is the only country in Asia that is not a party to the WHO FCTC, with the industry and its allies perpetuating the myth that acceding to the treaty will cause massive unemployment among millions of farmers and workers.<sup>85</sup> Indonesia has one of the world’s highest smoking rates, as well as weak tobacco control measures which still allow tobacco advertising on television and the streets, tobacco sponsorship of music and sports, and a low tobacco tax based on a complicated 12-tier system.<sup>86</sup>

TACTIC 7

**Litigates or  
threatens  
litigation**



## TACTIC 7

## Litigates or threatens litigation

**Most tobacco industry challenges, whether through domestic courts or under trade and investment agreements, are unsuccessful, but they are expensive, time-consuming and have a chilling effect on regulation in other countries.**

**THE INDUSTRY WILL:**

**Threaten and take legal action against governments** to prevent a policy from being developed and enacted, to slow its progress and to discourage governments through fear of legal costs. Such action includes constitutional challenges, trademark challenges, and bilateral and multilateral investment treaty or World Trade Organization challenges.

**EXAMPLE 1**

**The industry uses bilateral and multilateral investment treaties to mount legal challenges.**

Australia became the first country to introduce a bill for plain packaging in 2011. Three challenges were lodged against the Australian government through:

- The Australian High Court
- Bilateral investment treaty between Australia and Hong Kong
- World Trade Organization (WTO)

The Hong Kong bilateral investment treaty challenge was especially contentious as Philip Morris Asia bought a large number of shares in Philip Morris Limited (Australia) after the Australian government announced that it would be considering plain packaging. Andrew Mitchell (international law expert) highlighted that the timing of this acquisition, a whole 14 months after the government announced its intention to introduce plain packs, suggested that the acquisition was a strategic move in order to make this argument.<sup>87</sup>

As companies cannot directly challenge under WTO, five countries—Ukraine, Honduras, the Dominican Republic, Cuba and Indonesia—filed complaints in the WTO dispute. None exported large volumes of tobacco products to Australia, if at all. Instead, PMI or BAT funding for four of the five claims was later acknowledged.<sup>77</sup>

**Result:** All of these challenges were struck down.

Uruguay, in 2010, attempted to introduce warnings that cover 80% of cigarette packs, and a requirement that each cigarette brand be limited to just a single variant or brand type. Philip Morris International issued a legal claim against Uruguay, claiming that the measures violated the terms of a bilateral investment treaty between Uruguay and Switzerland.<sup>88</sup> Even though Article 2.1 of the bilateral investment treaty clearly provides for a public health exception, Philip Morris International sought compensation of approximately USD \$25 million.

**Result:** In 2016, the International Arbitration Tribunal dismissed all of PMI's claims and awarded Uruguay USD \$7 million for its legal costs,<sup>89</sup> demonstrating that small countries can win legal challenges brought by well-resourced multinational corporations. The award of the tribunal strongly affirmed the right of states to regulate in the public interest, including for public health. It accorded significant weight to the WHO FCTC as a reflection of a state's duty and right to protect public health, as a source of evidence-based best practices, and as a means of assisting developing states in particular to implement effective tobacco control measures.<sup>90</sup>

In response, in 2015, Bloomberg Philanthropies and the Bill and Melinda Gates Foundation launched the Anti-Tobacco Trade Litigation Fund.<sup>91</sup> Its purpose was to mirror support given to Uruguay, providing financial and technical assistance to lower- and middle-income countries that face legal challenges in international trade or investment tribunals. The fund maintains a network of senior trade litigation lawyers and offers technical assistance in legislative drafting and documentation to avoid legal challenges and potential trade disputes from the passage of tobacco control laws.

To date, following the Uruguay and Australia cases, there have been no further international trade and investment law challenges to tobacco-control measures. The absence of further claims may be because of the international outrage at those first cases by Philip Morris International. The fund's creation and technical assistance from international organizations such as WTO, the McCabe Centre for Law & Cancer, and the Campaign for Tobacco-Free Kids also may have emboldened countries to resist tobacco industry threats.

#### EXAMPLE 2

##### **The industry filed court cases to derail smoke-free legislation in the Philippines.**

In 2018, the Philippine Tobacco Institute, representing PMI and other tobacco companies, filed two court cases challenging the government of Balanga, Philippines for its proposed anti-smoking ordinances. The WHO FCTC program director for Southeast Asia Tobacco Control Alliance (SEATCA)

responded, "These court cases prove the duplicity of Philip Morris's claims, because despite its smoke-free rhetoric, PMI continues to aggressively fight effective tobacco control measures."<sup>92,93</sup>

**Result:** This case is ongoing.



#### EXAMPLE 3

##### **Three corporations challenged graphic warnings in Thailand.**

In 2013, three transnational tobacco corporations (Philip Morris International, BAT and

Japan Tobacco Inc.) legally challenged the health ministry's proposed larger pictorial pack warnings. They claimed the new warnings would violate Thailand's constitutional provisions guaranteeing freedom of expression; undermine trademarks and intellectual property rights, and have a disproportionate impact on legitimate competition. They also claimed that the measure was illegal in that the government had failed to consult with retailers and manufacturers.<sup>94,95</sup>

**Result:** In spite of the industry obstruction, which caused a one-year delay, the Ministry of Health won the case, leading to the adoption of 85% pack warnings in Thailand in 2014.<sup>96</sup> The victory over the industry is because of a dedicated legal team, clear evidence and strong public support as well as technical support from the international tobacco control community, in particular the McCabe Centre for Law and Cancer Council of Australia. Several strategies were employed, including strengthening the legal team to handle the lawsuit; mobilizing public support, in particular the youth who challenged the tobacco industry in front of PMI's office, and engaging media through press conferences and briefings.

TACTIC 8

**Directly lobbies  
and influences  
policymaking**



## TACTIC 8

Directly lobbies and influences policymaking

**The industry is complicit in illicit trade, yet claims that tobacco control policies, especially tax increases, will lead to illicit trade.**

**THE INDUSTRY WILL:**

**Enable tobacco smuggling.**<sup>97,98,99</sup> The majority of smuggled cigarettes are the tobacco company's own products.<sup>100</sup> The industry still makes the sale, still earns its profit, but smuggled cigarettes can help maintain market share and profitability or flood a new market. Also, they are cheaper and therefore more likely to be smoked by those on low incomes and by the young<sup>101</sup> who remain key target audiences for the industry.

**Use the existence of smuggled tobacco as “evidence” for their argument that tobacco control policies fuel smuggling.**

(This is closely linked to their investment in and use of “research” and information that exaggerates the threat of illicit trade (see Tactic 4).

**Thwart tobacco control policies, particularly tax increases, by creating fear that these measures will increase illicit trade.**

**Try to persuade regulators and law enforcement agencies that smuggling is being orchestrated by others** including organized crime, obscuring complicity from the major tobacco companies, despite evidence to the contrary.<sup>23,102</sup>

**EXAMPLE 1**

**The tobacco industry is complicit in tobacco smuggling in the U.K. and the EU.**

In 2014, British American Tobacco was fined by the U.K.'s revenue and customs authority over allegations of being complicit in smuggling tobacco products.<sup>103,104</sup> Tobacco manufacturers can circumvent tax systems in countries with a high level of tobacco tax, such as the U.K., by oversupplying tobacco in nearby low-tax foreign markets. The surplus products can find their way back into the highly taxed country without customs and revenue authorities receiving their due share. There is overwhelming evidence of the industry's longstanding complicity in such practices.<sup>97,23,105</sup> This latest fine plus linked government reports indicate that such practices are ongoing.<sup>101</sup> The 2013 report by the U.K. National Audit Office stated, for example, that the U.K. revenue and customs authority was “concerned that supplies of certain brands to specific countries are considerably higher than legitimate local demand” and that, in 2011, the “actual supply of some brands of hand-rolling tobacco to some countries exceeded legitimate demand by 240%.”<sup>106</sup>

Across the EU as a whole, even studies funded by tobacco companies show that tobacco industry's own cigarettes remain the single largest problem within the illicit cigarette market, comprising an estimated 89% of the illicit market in 2007 and 58% in 2016.<sup>107</sup>

Despite this evidence of ongoing complicity, the tobacco industry repeatedly uses the threat of tobacco smuggling to oppose tobacco control policies. For example, it argued that plain packaging would massively increase tobacco smuggling, creating misleading data (Tactic 4) and using this to foment scaremongering in the press.<sup>108, 109, 110</sup> It repeatedly argues that price increases will drive illicit trade while quietly and substantially increasing its own prices over and above the tax increases. In other words, the industry does not even believe its own arguments that price increases drive smuggling.<sup>111, 112</sup>

#### **EXAMPLE 2**

##### **The industry used the illicit argument to counter tax increases in Colombia.<sup>113</sup>**

Until the introduction of a major tobacco tax hike in December 2016, Colombia had one of the lowest taxes on tobacco products in Latin America. Tobacco industry opposition to the tax increase at this time relied heavily on the alleged link between high cigarette taxes and illicit trade. This was largely based on tobacco industry studies that claimed that higher tobacco taxes increased illicit trade of tobacco products.

However, these attempts to thwart the tobacco tax policy through fear of increased illicit trade were undermined by the complicity of the industry in illicit trade in Colombia. Both PMI and BAT, with 51% and 49% of the market share respectively, have faced racketeering charges in Colombia. In 2000, BAT faced action by the Departments (States) of Colombia which alleged that it committed violations of racketeering laws: "...arising from its involvement in organized crime in pursuit of a massive, ongoing smuggling scheme." An investigation by the International Consortium of Investigative Journalists found that in the same period, senior executives of BAT and Philip Morris had met on at least two occasions to discuss fixing prices on legal and smuggled cigarettes. In 2011, PMI faced a racketeering lawsuit in a U.S. federal court alleging their complicity in tobacco smuggling and money laundering and charged that PMI "created and exploited a sophisticated and clandestine smuggling enterprise that operates throughout the world and within the Departments of the Republic of Colombia."

Strong local tobacco control advocacy used this evidence of tobacco industry complicity in illicit trade, and with support from major international organizations, cross-government working and media campaigns, Colombia successfully managed to pass fiscal reforms in 2016 that tripled tobacco prices from 2017–2018, with the number of smokers falling by 15% over this period.

TACTIC 9

**Seeks to manage and enhance its own reputation in order to increase its ability to influence policy**



**TACTIC 9**

Seeks to manage and enhance its own reputation in order to increase its ability to influence policy

The industry has a long history of using diverse and far-reaching (and often tax-deductible) Corporate Social Responsibility (CSR) activities to enhance its reputation. These activities help the industry establish credibility, create opportunities to meet with policymakers, educate thought leaders, partner with influential NGOs, develop allies who can communicate with policymakers on the industry's behalf, and make the industry appear as an important part of development or regulatory efforts. Such efforts also hide industry harm and serve to market the company and its brands. In short, this tactic underpins and enables all the others. Such initiatives often attract media coverage at very little cost. More recently, Philip Morris International has used debates about harm reduction to try and position itself as the “solution” to the tobacco epidemic.<sup>114,77</sup>

**The industry will:**

**Use donations and corporate social responsibility initiatives to manage and build its reputation.**

**Use such initiatives to:**

- Gain credibility and create opportunities to develop new partnerships and meet with policymakers.
- Attempt to represent the industry as a “good corporate citizen,” concerned about population welfare and the economy (even as it attempts to undermine the reputation of the public health community –Tactic 2).
- Create positive media coverage.

**EXAMPLE 1****Philip Morris International hosted a summit on climate change by partnering with the American Chamber of Commerce in the Philippines.**

Philip Morris International (PMI) hosted a summit on climate change in 2016 with 234 participants, including people from every level of government. These activities are aided by the American Chamber of Commerce (AmCham). Southeast Asia Tobacco Control Alliance (SEATCA) stated: “AmCham has already been exposed as a champion of the tobacco industry.<sup>115</sup> It provides the tobacco industry a platform and facilitates easy access to governments. Although tobacco industry-related CSR activities are banned for sport, concert, cultural or art events in the Philippines, PMI is still able to conduct its CSR activities through AmCham.”<sup>116</sup>

**EXAMPLE 2****Philip Morris International attempted to create goodwill in the United Kingdom by offering to help government staff quit smoking.**

In July 2018, PMI was accused of staging “a disgraceful PR stunt” during the 70th birthday celebrations of the National Health Service by offering to help the staff quit smoking or at least “switch to smoke-free alternatives,” such as e-cigarettes or PMI’s own heated tobacco products.<sup>117</sup>

**Result:** A former U.K. health minister said the National Health Service should ignore the offer and noted, “The proposal PMI is making is merely an attempt to rebrand itself as a socially responsible entity, something parties to the WHO FCTC like the U.K. should not collude with.”<sup>117</sup>

**EXAMPLE 3****The industry self promotes by using social media.<sup>118</sup>**

Transnational tobacco companies use Twitter to help shape their public identity.<sup>119</sup> Tweets by the global corporate accounts of British American Tobacco, Imperial, Philip Morris International and Japan Tobacco International promote an image of being socially responsible as well as an enjoyable place to develop a career. Tweets often claim the companies have a positive impact on society and the environment, including tweets relating to philanthropy, environmental sustainability and reducing child labor. Companies regularly tweet their opposition to tobacco marketing and promotion restrictions, tax increases, plain packaging and smoke-free environments.

**EXAMPLE 4****Corporations created goodwill and influence in Myanmar through donations to flood victims.<sup>120</sup>**

Japan Tobacco International Myanmar visited the Secretary of Myanmar Investment Commission in September 2015 and made a small donation for flood victims. In February 2016, Myanmar approved legislation for pictorial health warnings on cigarette packs to come into effect Sept. 1, 2016. In March, Japan Tobacco International Myanmar, along with British American Tobacco, met with the Myanmar Investment Commission about the pictorial health warnings, requesting a delay in implementing its warnings. Although the decision did not come from the Ministry of Health, the implementation of the warnings was delayed.<sup>121</sup>

## INDIA CASE STUDY

# The Tobacco Industry uses multiple tactics at once

Cigarette package warnings are a highly cost-effective way to increase awareness of the negative health effects of smoking and to reduce tobacco use. Picture-based warnings convey a more powerful message than text-only warnings, and the effectiveness of warnings is known to increase with size. Picture warnings are especially valuable for low- and middle-income countries where there are higher rates of illiteracy and where governments may have few resources.

When the Indian Ministry of Health and Family Welfare proposed pictorial pack warnings covering 85% of each cigarette pack in 2014, the industry mounted huge efforts to disrupt this measure.<sup>122,123</sup> The industry's agents targeted politicians who were on the critical parliamentary committee (Tactic 5), despite the fact that this activity violated Article 5.3 of WHO FCTC. The treaty explicitly states that the industry should not be part of tobacco-control policy development.



85% pictorial pack warnings in India

There were extraordinary conflicts of interest. The government owned more than a 30% stake in the India Tobacco Company,<sup>124</sup> while the CeeJay Group, the largest bidi (cigarette) maker in India's western Maharashtra state, was owned by the heavy-industry minister's family.<sup>125</sup>

Between 2014 and 2015, the Parliamentary Committee on Subordinate Legislation carried out wide-ranging consultations with various stakeholders including tobacco farmers, manufacturers,

retailers and relevant ministries. In February 2015, the committee wrote to the ministry to suspend the pack warning.

The committee reported it met with seven Parliament members and stakeholders from the All India Bidi Industry Federation and the Karnataka Virginia Tobacco Growers Association expressing apprehension about the new proposal (Tactic 5).<sup>126</sup>

They repeated many of the industry's arguments, claiming that:

- the increase in the warning size was arbitrary, excessive and unreasonable;
- the policy would lead to the collapse of the bidi industry, affecting the livelihood of 2 million tribal people from the forest who picked the leaves;
- the pack warnings would affect the income of 38 million people working in the cultivation and sale of tobacco;
- the policy would lead to a proliferation of illicit cigarettes; and
- it would be difficult to place pictorial pack warnings on the conical bidi packaging.<sup>127</sup>

The industry also mobilized an extensive network of front groups (Tactic 1), including:

- All India Bidi Federation;
- Tobacco Institute of India;
- Confederation of Indian Industry;
- Federation of Indian Chambers of Commerce and Industry;
- Associated Chamber of Commerce and Retailers Association of India; and
- International Tobacco Growers Association.

These groups often acted as industry spokespeople, presenting their views through various channels, including letters and in meetings with the highest policymakers in the health ministry. They proposed instead pictorial warnings of 30% to fulfill the minimum requirement of WHO FCTC Article 11 guidelines.

The industry launched various campaigns through the media to promote its messages to target audiences. The Federation of All India Farmers Association, which purported to represent the interests of India's tobacco farmers, bought full-page advertisements in the leading national newspapers (e.g., Hindustan Times) asserting that 85% pack warnings would harm the livelihoods of tobacco farmers and lead to the proliferation of illicit cigarettes (Tactic 4).<sup>128</sup>

## Review graphical health warning rules on tobacco items: FAIFA



PRESS TRUST OF INDIA  
New Delhi, 19 December

The Federation of All India Farmer Associations (FAIFA) on Tuesday asked the government to review current rules on graphical health warnings on tobacco products, saying it is hurting all the stakeholders.

The farmers' body, claiming to represent farmers and farm workers of commercial crops in states including Andhra Pradesh, Telangana, Karnataka and Gujarat, called for a balanced approach after consultation with all involved parties.

"Large health warnings are excessive, unreasonable and have had adverse impacts and unintended consequences," FAIFA General Secretary Murali Babu said in a statement. The current warnings have only impacted domestic legal industry by severely undermining the competitiveness of Indian tobaccos, he added. It has given impetus to

illicit trade and unorganised sector, while the overall tobacco consumption in the country continues to grow, Babu claimed. Under current regulations, 85 per cent of main display area on all tobacco product packages has to be covered by health warnings, including pictorials.

Since these illegal cigarettes do not use Indian tobacco, it impacts the Indian tobacco farmers, further reducing demand for their tobaccos. It may be noted that the Indian FCV Tobacco farmers have lost about 22 million kgs, FAIFA said.

"The government must have a balanced approach, after consultation with all stakeholders, that does not negatively impact either the Indian FCV farmers, the tax revenue and domestic legal industry," it said. The current policy on warnings on tobacco products is hurting all stakeholders, including the government, FAIFA added.

The industry launched various campaigns through the media to promote its messages to target audiences

Tobacco companies, manufacturers and retailers also filed lawsuits before the high court to object to the proposed pack warnings, challenging the constitutional validity of the proposed regulations (Tactic 8). The Karnataka High Court heard more than 60 cases led by representatives of the tobacco and bidi industry, then overruled the health ministry's 2014 rules mandating the 85% pictorial health warnings.<sup>129</sup> In response, the pro-health Health for Million Trust led a public interest litigation fight in the Supreme Court of India requesting that all litigation filed across several high courts be heard collectively by the court.

In a short-term win for the industry to weaken the measure, on March 15, 2015, the legislative committee recommended that, to protect farmers' interests, the government adopt a warning size of 50% (a slight increase from the existing 40%).<sup>130</sup>

**Result:** The prime minister's office extended its full support, and the health ministry refused to give in, even as tobacco product manufacturers continued to mount pressure on the government, seeking rollback of larger 85% pictorial warnings. After years of delay, the Supreme Court of India finally ruled in January 2018 that cigarette and other tobacco product manufacturers must display statutory pictorial health warnings covering 85% of the package.<sup>131</sup>

# Lessons Learned

Tobacco industry tactics are remarkably similar around the world. Understanding their arguments and tactics of the tobacco industry is the first, vital step in understanding why tobacco control policies are so frequently delayed, watered down or simply not passed,<sup>132</sup> and anticipating and knowing these tactics are essential for countering the industry.

**1**

**There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.**

**2**

**The tobacco industry, with its allies and front groups, uses multiple tactics to interfere in health policies as part of a billion-dollar global strategy to deny and delay tobacco control.**

**3**

**Independent evidence is the foundation for policy change—not false or unsubstantiated claims at a cost to government and its people.**

**4**

**When dealing with the tobacco industry or those working to further its interests, governments should be accountable and transparent.**

**5**

**Governments should require the tobacco industry, and those working to further its interests, to operate and act in a manner that is accountable and transparent.**

**6**

**Because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses.**

**7**

**Governments can achieve better health outcomes for their people by being vigilant about industry motives and tactics, limiting interaction with the tobacco industry, rejecting partnerships or non-enforceable agreements, and implementing health policies based on WHO FCTC Article 5.3 guidelines.**

# How to Take Action

**Stop the undue influence of the tobacco industry and its allies on tobacco-control policy.**

**International organizations, national governments, public health and other professionals, and the media need to recognize and challenge tobacco industry tactics.**

**They can use existing knowledge and this report to predict and prepare for the industry's tactics.**

**A combination of the actions outlined below has been used in different countries to counter the tobacco industry's efforts to undermine tobacco-control policy.**

**Governments should work in partnership with civil society to help counter the tobacco industry.**

**Civil Society organizations can:**

- Investigate and expose tobacco industry arguments and tactics.
- Tell STOP about examples of tobacco industry interference in your country—this will help us refine and develop more resources to counter tobacco industry interference. In particular evidence is needed on lower income countries.
- Research and present true statistics.
- Undertake advocacy, including: media campaigns, public speaking, letter writing, commissioning research or polls, filing legal challenges, lobbying political decision-makers and lobbying parliament.
- Develop and use toolkits to support policy and implementation.

**Governments should honor and abide by their obligations under WHO FCTC Article 5.3 by introducing safeguards to protect tobacco-control policy from tobacco industry interference. Some practical actions, based on the guidelines for implementation of Article 5.3 of the WHO FCTC, include:<sup>133</sup>**

- Develop and adopt a mandatory code of conduct based on WHO FCTC Article 5.3 guidelines for all government departments, officials, employees, consultants and contractors, as well as all public office holders, including elected officials.
- Require disclosure of all interactions with the tobacco industry.
- Prohibit industry contributions to political parties, candidates and campaigns.
- Reject all offers of assistance from the industry in the drafting of proposed tobacco-control policies.
- Only interact with the tobacco industry when and to the extent strictly necessary to enable the government to effectively regulate the tobacco industry, and then interact in a transparent manner.
- Ensure that all government institutions and individuals divest of any financial interest in the tobacco industry.
- Ban all so-called industry corporate social responsibility activities.
- Require the tobacco industry to disclose periodically information on expenditure on marketing, lobbying and lobbyists, philanthropy, and political contributions.
- Commit to a sustainable funding mechanism for tackling the tobacco industry as part of the government's tobacco-control budget.
- Ensure that state-owned tobacco companies are treated the same way as any other member of the tobacco industry with respect to setting and implementing tobacco-control policy.
- Regulate the industry.

## RESOURCES

## STOP RESOURCES AND LINKS

Stopping Tobacco Organizations and Products (STOP)	<a href="http://www.exposetobacco.org">www.exposetobacco.org</a>
TobaccoTactics University of Bath, England	<a href="http://www.tobaccotactics.org/">http://www.tobaccotactics.org/</a>

## OTHER IMPORTANT RESOURCES

Bloomberg Anti-Tobacco Trade Litigation Fund US \$4 Million	<a href="https://www.tobaccofreekids.org/what-we-do/global/legal/trade-litigation-fund">https://www.tobaccofreekids.org/what-we-do/global/legal/trade-litigation-fund</a>
Bloomberg STOP Project: Stopping tobacco, organizations and products	<a href="https://www.bloomberg.org/program/public-health/stoptobacco/">https://www.bloomberg.org/program/public-health/stoptobacco/</a>
Preventing Tobacco Industry Interference: FCTC Article 5.3 Toolkit 2015; A toolkit for Advocates and Policy Makers SEATCA 2015	<a href="https://seatca.org/dmdocuments/5.3%20toolkit%202015.pdf">https://seatca.org/dmdocuments/5.3%20toolkit%202015.pdf</a>
Southeast Asia Tobacco Control Alliance (SEATCA) First Asian Tobacco Interference Index 2018	<a href="https://seatca.org/?p=6221">https://seatca.org/?p=6221</a>
The Tobacco Atlas, 6 <sup>th</sup> edition: Drope J, Schluger N, Cahn Z, Drope J, Hamill S, Islami F, Liber A, Nargis N, Stoklosa M. 2018. Atlanta: American Cancer Society and Vital Strategies. Chapter 17: Industry strategies; 48–49	<a href="http://www.tobaccoatlas.org">www.tobaccoatlas.org</a>
The Tobacco Industry. Source Watch Tobacco Portal	<a href="http://www.sourcewatch.org/index.php/Tobacco_industry">http://www.sourcewatch.org/index.php/Tobacco_industry</a>
Truth Tobacco Industry Documents: (formerly known as Legacy Tobacco Documents Library)	<a href="https://www.industrydocumentslibrary.ucsf.edu/tobacco/">https://www.industrydocumentslibrary.ucsf.edu/tobacco/</a>
Tobacco Industry Watch Southeast Asia Tobacco Control Alliance (SEATCA)	<a href="https://tobaccowatch.seatca.org">https://tobaccowatch.seatca.org</a>
WHO Framework Convention on Tobacco Control (WHO FCTC) Article 5.3	<a href="http://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf;jsessionid=B2949C268D3CD-CB2F168543B9FA1A291?sequence=1">http://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf;jsessionid=B2949C268D3CD-CB2F168543B9FA1A291?sequence=1</a>
WHO FCTC: Guidelines for implementation of Article 5.3	<a href="https://www.who.int/fctc/guidelines/article_5_3.pdf">https://www.who.int/fctc/guidelines/article_5_3.pdf</a>
WHO FCTC: Examples of implementation of Article 5.3 communicated through the reports of the Parties	<a href="https://www.who.int/fctc/parties_experiences/en/">https://www.who.int/fctc/parties_experiences/en/</a>
WHO FCTC Tobacco Industry Monitoring Centres on Article 5.3 in Brazil, South Africa, Sri Lanka (funded by The Union)	<a href="https://www.who.int/fctc/implementation/knowledge-management/en/">https://www.who.int/fctc/implementation/knowledge-management/en/</a>
WHO Tobacco-Free Initiative (TFI) “Watching and countering the industry”	<a href="http://www.who.int/tobacco/industry/en/">http://www.who.int/tobacco/industry/en/</a>
WHO World No Tobacco Day 2012: Tobacco industry interference	<a href="https://www.who.int/tobacco/wntd/2012/industry_interference/en/">https://www.who.int/tobacco/wntd/2012/industry_interference/en/</a>

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