

Ukraine



Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The tobacco industry (TI) and its lobby groups were focused on influencing various blocks of policies. In the post-pandemic period, the main policy focus was on the HTP taxation and EU TPP draft legislation. The TI made attempts to dismiss or undermine the taxation policy that applied equal tax rates to HTPs and cigarettes. After the tax policy was applied in January 2021, the TI consolidated its efforts to attack the legislation and bring down the tax rates. On December 16, 2021, the draft law was favorably voted in the parliament and signed by the President on 11 January 2022. The law preserved nearly all strong regulatory norms as per Directive 2014/40/EU of the European Parliament (also known as Tobacco Products Directive, which is part of Ukraine's political and economic obligations under the Agreement of Association between Ukraine and the European Union).

In the wartime period, the TI tried to postpone the implementation date of the new law and also conducted attacks on the smoke-free norms in cafes, bars and restaurants. Some activities to "warn" the government of the unprecedented rates of illicit tobacco trade were spotted, but the TI and its groups presented no reliable data or reports.

2. INDUSTRY CSR ACTIVITIES

The post-pandemic report period is characterized by continuous TI CSR activities which are less focused on the COVID-19 pandemic or emergency response but more on introduction and promotion of new products. In the wartime period, with the support of the local administration, the TI provided various supplies, equipment for shelters and medical equipment.

3. BENEFITS TO THE INDUSTRY

The government avoided providing financial preferences to the TI and even tightened some enforcement measures for tobacco taxation administration. However, active attempts were made to create preferences for the tobacco product distributors as well as taxation preferences for specific products.

4. UNNECESSARY INTERACTION

There is a low level of disclosure of any interactions of the government or parliament representatives with the TI. Notably, in the wartime period, most government web resources had access restrictions, and later low level of publications was observed. On one side, in wartime, interactions with the government decreased substantially due to the emergency. In July 2022, the monitoring started, noting some of the industry's lobbying activities and meetings with the stakeholders.

5. TRANSPARENCY

The transparency of the government decreased in wartime. In 2023, most government institutions will try to re-establish regular communications and increase transparency. At the same time, the government was less susceptible to any meaningful influence by the TI as overall cooperation and policy discussion practice decreased. Based on the Law on Access to Public Information, it was possible to receive many documents regarding the activity of the working groups, including protocols of the meetings and participant lists.

6. CONFLICT OF INTEREST

The conflict-of-interest issue is well regulated by the national legislation concerning public servants and lawmakers. The TI is prohibited from any contributions to political parties, and no violation cases of this provision were exposed. However, the implementation of these provisions lacks legal practice and remains weak.

7. PREVENTIVE MEASURES

No TI interference preventive measures were implemented by the government in the report period. There are enough legislative norms that request information and accountability reports on the content of tobacco products, licenses, pricing and taxation. However, according to the new tobacco control law, the government substantially increased the reporting requirements for the content and emissions of tobacco products, which is yet to be implemented. New regulations also require disclosing tobacco marketing data and information on novel products.

Recommendations

1. In 2022-2023, Ukraine faced enormous security, political, economic, and demographic challenges caused by the war of the Russian Federation on Ukraine. In this reality, it is only possible to appeal to the decision of the Conference of the Parties to the WHO FCTC: Tobacco Control in Complex emergencies FCTC/COP8(20). According to this document, COP called upon the Parties facing complex emergencies to continue to fulfil their obligations under the WHO FCTC to the extent possible, mainly *“to continue the appropriate level of surveillance for tobacco control”* and *“to pay special attention to Article 5.3 of the WHO FCTC and related Guidelines”*.
2. The primary lobbying efforts of the TI may be directed towards discrediting the tobacco taxation policies and impacting the new policy that should be put in place after 2024. The government must pay special attention and support future decisions through evidence-based health economic research.
3. The TI is using wartime arguments (economic scrutiny, withdrawal of the investments) to keep the pressure and demand the postponement of any tobacco control legislation. It is recommended that the Members of Parliament and the government stay informed about this challenge and secure public health policies from TI's negative impact.
4. The parliament and the government made considerable achievements in adopting the EUTPD into the national legislation in 2022. Serious consideration should be given to the apparent trials of the tobacco industry front groups to block the development, adoption, and implementation of the regulatory acts for this law. It is recommended that the government keep initial commitments and enforce the new regulations according to the law for public health priorities.
5. It is recommended that the government consider total ban TI CSR-related activities and investigate the ongoing ones.
6. Ukraine should initiate the revision of the decision *“tobacco control in complex emergencies FCTC/COP8(20)”* at COPI I in 2023 and seek the Parties' advice on fulfilling its obligations under the current complex emergency.