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Summary of Findings

1. Industry participation in policy development

During the period of 2020 and 2021 the influence from the tobacco industry and its main ally, the National Federation for Tobacco Retailers (NFTR, Confédération des buralistes de France) was still blocked. This is primarily because of the political will at the level of the Health Minister, the Prime Minister and the French president as well as having a clear fiscal strategy with an objective. The Minister in charge of budget and of the tobacco retailers continues to have a strong relationship with NFTR. The Budget Minister is also in charge of the key file of the tracking and tracing system to fight against the illicit trade of tobacco products. Despite the fact this protocol belongs to the Health Ministry, its involvement is limited and may be insufficient to prevent the interference of the tobacco industry.

Thanks to a co-decision at the level of the Budget Ministry and Health Ministry about tobacco taxation, the interference of the tobacco industry to influence that policy failed last year and overall the cooperation between public agencies and Health and Customs has improved. However, the tobacco industry tried to circumvent this common policy through different initiatives especially at the level of the Parliament or through the use of third parties. It is therefore necessary to develop further initiatives and provisions in order to protect the setting and implementation of public policies, especially public health policies.

2. Industry CSR activities

Since 2016 and the adoption of new tobacco control provisions, the previous advertising, promotion and sponsoring ban has been extended to philanthropies activities and therefore includes all corporate social responsibility (CSR) activities. The legislation is very comprehensive and prohibits these activities carried out by the tobacco industry and also by third parties if they directly or indirectly may promote tobacco or tobacco products. However, the tobacco industry tries to use the notion of harm reduction or new social challenges such as gender equality to promote a new and good image of its activities.

Beside this, as mentioned in previous reports this provision does not concern tobacco retailers and their professional organizations which continue to develop CSR activities, especially in the framework of the COVID-19 pandemic.

3. Benefits to the industry

Some other benefits continue to be granted to the tobacco industry and its allies such as a favorable taxation for new tobacco products (heat-not-burn tobacco) and financial support to tobacco retailers. Like in previous years, the French government continues to financially support the tobacco retailers despite the fact that their revenues have constantly increased for years. The government concluded a new contract which has been enforced during the period of 2020-2021. This contract is to help tobacco retailers diversify their activities but in the past many financial supports were already granted to the profession for such a purpose. While other activities which do not cause health damages and other social costs are not supported in such a manner.

4. Unnecessary interaction

The main problematic relationship between the government and the tobacco lobby refers to their interaction with tobacco retailers and their representatives. Such situations are actually problematic because there are still links and financial relationships between the tobacco industry and the tobacco retailers/their representatives. The tobacco industry uses this organization as a third party to protect and develop its interests. They particularly use them in their harm reduction strategy to change the legal framework.

Another key problem is many stakeholders do not know about the FCTC, particularly Article 5.3 Guidelines. In their activities, they consider to a certain extent that they have to work with representatives from the tobacco industry like with other industries.

5. Transparency

Different provisions were adopted in the past years in France in order to improve transparency, generally in the public activities and public life. These provisions apply to public stakeholders and representatives of private interests. The concern is not solely focused on the tobacco industry but in general to improve transparency including tobacco stakeholders. There are also specific provisions regarding the tobacco industry and particularly the expenditures spent for lobbying activities. The main problem regarding this last provision concerns the control about the sincerity of budgets mentioned by the tobacco industry in their disclosure.

Like mentioned in previous reports, standards and transparency concerning the framework of interaction when it is necessary between public stakeholders and the tobacco industry in a large definition (including the tobacco retailers and their representatives) are still insufficient about topics like agendas, minutes etc.

6. Conflict of interest

The disclosure of possible conflicts of interest, and as a consequence the protection of public policies towards these interests, is one of the measures adopted for better transparency in public life and to improve it. It particularly concerns possible conflicts of interest with the tobacco lobby. These declarations are made public.

In 2020 and early 2021 the tobacco industry has been very active targeting MPs directly and indirectly through third-party allies and lobbyists. They tried to pass amendments in favor of their activities; until now they failed but they use public health arguments to promote their activities. This becomes all the more necessary to enlarge the scope of obligations regarding disclosure of possible conflicts of interest.

7. Preventive measures

The government requires the tobacco industry to submit information on tobacco products and ingredients. The government has put in place a policy to disallow the acceptance of all forms of contributions/gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts or study visit invitations given or offered to the government, its agencies, officials and their relatives.

The government has not particularly formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. Their rules concern any possible interest, but nothing is specific for the tobacco lobby. Moreover, despite some progress and information disseminated by the Health Ministry and civil society acting in collaboration with this Ministry, there is no systematic information disseminated to all the public stakeholders who may be in contact with the tobacco industry and its allies. The FCTC treaty remains still little known by many stakeholders and particularly its provisions regarding the protection of public policies from tobacco industry interests.

“ In 2020 and early 2021, the tobacco industry targeted MPs both directly and indirectly, through third-party allies and lobbyists. They tried to use public health arguments to promote their activities and attempted to pass pro-tobacco amendments, but they failed. ”

Recommendations

1. Increase awareness at each level of political decision-making about the tobacco industry's interference on tobacco control policies as well as its strategy to use CSR and harm reduction to improve its image and participate in political decisions and legislation.
2. Define specific rules for public servants and collaborators in all departments of the government and in local political jurisdictions on how to deal with the tobacco industry on necessary situations. This protocol could be considered as a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry.

Disseminate these rules to MPs and include in current disclosures from MPs info regarding possible links with the tobacco industry.
3. Define a practical protocol explaining in detail how to react in cases of interference of the tobacco industry such as the participation of a representative of the tobacco industry at a public event or at a private event gathering representatives from France.
4. Investigate current disclosure made by the tobacco industry regarding transparency rules about lobby expenses and evaluate its sincerity and possible circumventions and violations.
5. Prohibit interaction with third-party allies and lobbyists of the tobacco industry.
6. Prohibit any public financial support to an organization member that works or holds positions directly or indirectly with the tobacco industry.
7. Adopt an appropriate and holistic legal framework for tobacco control. This should include policies not limited to public health but also for environmental topics in order to fully capture the limitation of interaction with the tobacco industry. Adapt the current rules about the extended producer responsibility in order to include Article 5.3 obligations in this legal framework especially in terms of no delegation of activities to the tobacco industry.