

Spain

Overall score:

63

Summary of Findings

1. Industry participation in policy development

The government of Spain does not actively allow the tobacco industry to sit in interagency meetings and advisory groups that set public health policies. However, the state-owned tobacco monopoly was liberalized in 1999, and as a consequence, the state has kept some reminiscences. The most significant concern is the fact that the tobacco industry is required by law to sit in the Consultation Committee of the Tobacco Market Commission (TMC) of the Spanish Ministry of Finance. Although the TMC is not strictly speaking a public health body, some of its functions are to discuss and report on central issues in the agricultural and industrial tobacco economy, informing the government, through the Commissioner, of the opinion of the sector on such issues. Besides, the TMC controls the advertisement and promotion of tobacco products. In this regard, we consider the presence of the industry in the Consultation Committee as a risk for public health.

2. Industry CSR activities

The WHO Framework Convention on Tobacco Control (FCTC) considers CSR as forms of tobacco advertising, promotion and sponsorship. In Spain, the law bans tobacco advertising, promotion and sponsorship. However, the different governments of Spain have been oblivious to the obligations under the FCTC regarding CSR activities of the tobacco industry. The government rarely receives CSR contributions from the tobacco industry, but these activities receive the support and even

the partnerships of the government. We have documented a pervasive collaboration at the national, regional, provincial and municipal level of the government.

3. Benefits to the industry

The government has not given the tobacco industry any privileges, incentives, exemptions or benefits except for in the Canary Islands. This region with 2.1 million inhabitants is subject to a special tax regime aimed to stimulate their distant offshore economy in line with EU regulations. The special tax regime also affects the tobacco products and is regulated by the regional government of the Canary Islands. As a result, tobacco product prices are lower in the Canary Islands than in the rest of Spain.

4. Unnecessary interaction

There are instances of unnecessary interaction between the government and the tobacco industry. The main policy domains in which this happens are the combat against illicit tobacco trade and tobacco growing. The tobacco industry gave to the Guardia Civil (Civil Guard), which is the Spanish police force in charge of combatting illicit trade, equipment and participates actively in the training of national and local law enforcement agents. In appreciation for the services provided, the Civil Guard awarded Philip Morris Spain (PMS) the Cross of the Order of Merit. There is also a history of agreements signed by the Ministry of Agriculture with the tobacco manufacturers to ensure the sale of Spanish tobacco leaf. The state has a stake in the market of tobacco leaf because the state "inherited" the agricultural part of the tobacco state monopoly which is now a company where the state holds 70% of its capital.

5. Transparency

The transparency of the interactions, when indispensable, between the government and tobacco companies, is limited. The government requires the registration of all economic operators, including importers, distributors, manufacturers and retailers of tobacco products, but not of lobbyists. Also, the Ministers of the national government make their daily meeting agendas available online, but not other officials of the national government.

6. Conflict of interest

The law permits, with limitations, legal contributions to political parties, including to candidates and campaigns, from private individuals but not private companies, businesses or foundations. The law, however, does not regulate contributions from corporations to foundations of political parties, provided contributions serve only the purposes of the foundations. Moreover, there have been striking cases of retired senior government officials working for the tobacco industry. Lastly, the economic interest of the state in the tobacco market through Spanish Tobacco Company in Rama S.A. (CETARSA) and the permeable TMC creates an apparent conflict of interest.

7. Preventive measures

The government has formulated, adopted and implemented a code of conduct for public officials, not specifically prescribing the standards with which they should comply in their dealings with the tobacco industry. Also, such a code of conduct for public employees and political appointees is insufficient to deal with the range of the tobacco industry's typical interference activities. For example, public employees and political appointees may own up to 10% of companies of the tobacco industry, under some circumstances and without a precise enforcement mechanism. Conflict of interest is loosely defined in the law as having a personal interest that may unduly influence the exercise of their functions and responsibilities, and it only applies to links held during the two years before the appointment.

No procedure has been found by which the national government has put in place a procedure for disclosing the records of the interaction with the tobacco industry and its representatives. Also, no publicly available information has been found indicating that the national or regional governments are raising awareness within its departments on policies relating to FCTC Article 5.3 Guidelines.

Recommendations

1. Given the vested interest of the state-owned tobacco-growing company CETARSA and the porousness of the regulatory body of the TMC to the influence of the tobacco industry, a firewall should be built around those bodies to safeguard the political and policy independence of the government on matters related to tobacco.
2. It is urgent to establish criteria to limit interactions with the tobacco industry to the indispensable level and ensure the total transparency of the interactions that occur. At a minimum, the agenda, minutes and agreements reached during said meetings should be made public.
3. The regulation needs to be improved to define better and penalize conflicts of interest for government officials and employees, specifically with the tobacco industry. To this effect, it is indispensable to raise awareness about tobacco industry interference in the national and regional governments, particularly in departments usually involved in CSR activities of the industry, such as finance, development, health, environment and women's issues. Civil society should be involved in these efforts through the National Committee for the Prevention of Tobacco Use. Also, an act of political resolve should preclude the government from participating in any CSR effort of the tobacco industry and their allies.