

KENYA

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

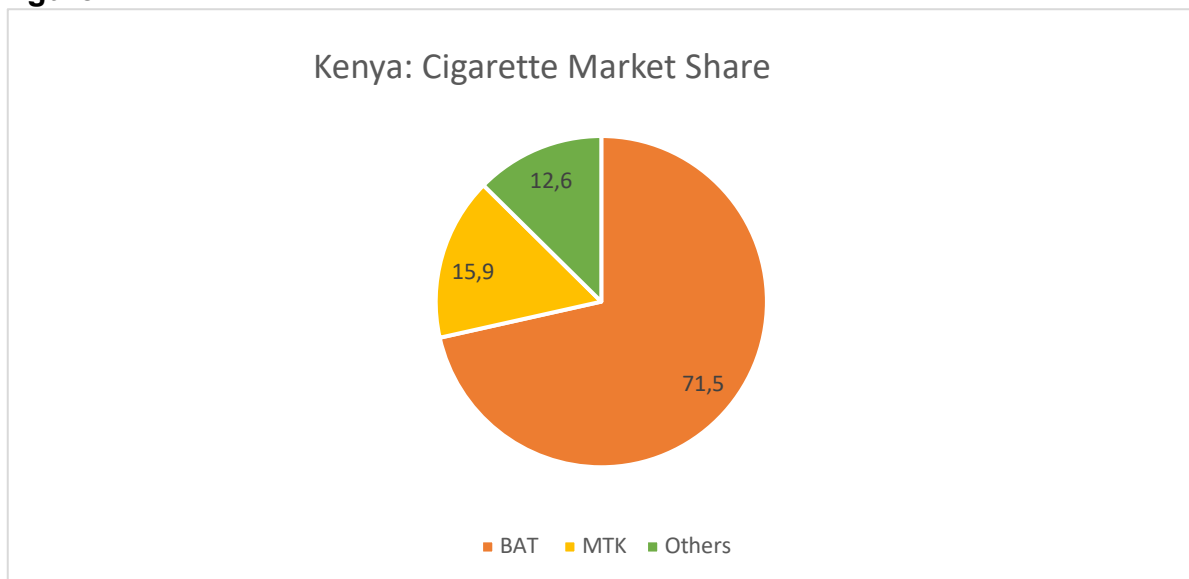
Background and Introduction

Smoking remains a major public health issue in Kenya. The Global Youth Tobacco Survey indicated that 12.8% of adolescent boys (13-15 years) and 6.7% girls have used tobacco. Kenya was one of the early signatories of the WHO Framework Convention on Tobacco Control (FCTC), ratifying in 2004 and has shown commitment to implement tobacco control.

The Tobacco Control Act was passed in 2007 and in 2014 the Tobacco Control Regulations was enacted. However the tobacco industry is a problem thwarting government efforts and its interference in Kenya's Tobacco Control Regulations 2014 has been documented.¹ In 2015, British American Tobacco (BAT) challenged the constitutionality of Kenya's 2014 Regulations in the High Court and then the Court of Appeal. Four years later, in November 2019, the Supreme Court ruled to uphold the regulations.²

The tobacco industry in Kenya is dominated by just two companies (Figure 1) BAT controlling more than 70% of cigarette market share and second company, Mastermind Tobacco Kenya Ltd. (MTK) which sells brands such as Supermatch, Supermatch Menthol and Rocket. In January 2019, it was reported that MTK was in talks to sell its majority stake to Philip Morris International (PMI).³ This deal will enable PMI to expand its presence in Africa, which at the moment is only concentrated in North Africa.

Figure 1



BAT expanded its reach in the country in 2019. It sells its cigarettes through 50,000 retailers. It expanded 4,000 additional retail outlets resulting in a 4% growth in 2019 compared to 2018. In 2019 it launched LYFT, which is an oral nicotine pouch placed under the lip and the nicotine is absorbed through the gum.

¹ TobaccoTactics. <https://tobaccotactics.org/index.php?title=Kenya-Timeline:IndustryInterferencewiththeTobaccoControlRegulations2014>

² ATCA Press Release. Supreme Court Upholding of Tobacco Control Regulations in Kenya 16 November 2019 <https://www.docdroid.net/wSaphW7/atca-statement-kenya-tc-regulations-pdf>

³ The Kenyan Wallstreet, Mastermind Tobacco in Talks to Sell Majority Stake to an American Cigarettes Manufacturer; 26 Jan 2019 <https://kenyanwallstreet.com/mastermind-tobacco-in-talks-to-sell-majority-stake-to-an-american-cigarettes-manufacturer/>

The WHO Framework Convention on Tobacco Control (FCTC) Article 5.3 empowers the government to protect itself from tobacco industry interference. This report reviews on how the government is implementing Article 5.3 guidelines. It uses the questionnaire on Tobacco Industry Interference Index developed by the Southeast Asia Tobacco Control Alliance.⁴ This report is based on publicly available evidence. Incomplete information is acknowledged as a limitation. This is the second report for Kenya. Kenya has a total score of 40, which is a deterioration from last year, highlighting the importance of stepping up efforts to implement Article 5.3. The main findings of the Index are presented below.

Summary Findings

1. **INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT**

According to the Kenya Tobacco Control Regulations 2014, the Government does not accept, support or endorse any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control. Kenya's delegation to the COP meetings do not include any representatives from the tobacco industry.

2. **INDUSTRY CSR ACTIVITIES**

Government officials do not endorse, accept or participate in tobacco related CSR activities.

3. **BENEFITS TO THE INDUSTRY**

In 2017 the Treasury Cabinet Secretary proposed legislation that reverts from single tax system (enacted through the Excise Duty Act, 2015) to the tiered system which benefits the tobacco industry. The delay in fully implementing the Tobacco Control Regulations works to benefit the tobacco industry. However, in 2019 Kenya increased excise tax on tobacco by 20 percent. BAT described this tax increase as "excessive and unpredictable" which increases and threatens the sustainability of tobacco businesses.

4. **UNNECESSARY INTERACTION**

The Tobacco Control Regulations forbids the government from accepting any assistance from the tobacco industry on any enforcement activities or entering into any partnership with it. In 2019, BAT was awarded the Solid Rock Commendation (Lifetime Achievement) for Exporter of the Year Award through a project of Kenya Export Promotion Council (EPC) which is a state agency. The Deputy President of Kenya attended the event along with the CS Ministry of Industry, Trade and Cooperatives, EPC Chief Executive Officer, amongst other government officials.

5. **TRANSPARENCY**

The Tobacco Control Regulations sets out the procedure for all interactions between the government officials and the tobacco industry. The Regulations requires full disclosure of political contributions from the tobacco industry. A report must be prepared and submitted to the Board: (c) "any lobbying, philanthropy, political contributions and all other activities by the tobacco industry." However, there is no publicly available record of how this is being implemented.

⁴ Assunta M. Dorotheo E.U. SEATCA Tobacco Industry Interference Index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3; Tob Control <http://dx.doi.org/10.1136/tobaccocontrol-2014-051934>

6. **CONFLICT OF INTEREST**

The Tobacco control Act requires that any affiliation to the tobacco industry by a member of the tobacco control board must be declared for purposes of determining any potential conflict of interest

7. **PREVENTIVE MEASURES**

Overall there has been no progress in implementing preventive measures since 2018. While the Tobacco Control Regulations requires a procedure to be put in place to disclose all records of interactions, however the implementing procedure is not ready. The Cabinet Secretary has to prescribe a code of conduct for public officer including service providers, contractors, consultants involved in setting or implementing public health policies for tobacco control, however this has not been developed yet.

As of 2019 there is no progress in establishing a repository of reports from the tobacco industry that can be readily available for access to the public.

Kenya: 2020 Tobacco Industry Interference Index

Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ⁵ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ⁶ in setting or implementing public health policies in relation to tobacco control ⁷ (Rec 3.1)	0					
According to the Kenya Tobacco Control Regulations 2014, the Government does not accept, support or endorse any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control. ⁸ BAT's 2019 annual report also states: "In 2019, we continued engaging with various government departments in pursuing a balanced and predictable regulatory and fiscal environment for our business." ⁹ But there is no record to substantiate this from the government.						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)	0					
In accordance with the Tobacco Control Regulations, the government does not accept, support or endorse any policy or legislation drafted by or in collaboration with the tobacco industry.						
3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)		1				
Interaction allowed with conditions / restrictions Tobacco Control Regulations 30 (g) restrict involvement of tobacco industry in the development of tobacco control policies and laws except in public forums where the industry is presenting its views to the public authority on relevant tobacco control laws and polices; (h) not allow any person employed by the tobacco industry or any entity working to further its interests to be a member of any government body, committee or advisory group that sets or implements tobacco control or public health policy.						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the		1				

⁵ The term "government" refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

⁶ The term, "tobacco industry" includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁷ "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour

⁸ Kenya Tobacco Control Act 2014: http://kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/169-Tobacco_Control_Regulations_2014

⁹ BAT Annual report pg 52

[http://www.batkenya.com/group/sites/BAT_B4ALXZ.nsf/vwPagesWebLive/DOBQ6B6A/\\$FILE/BAT_Kenya_Annual_Report_2019.pdf?openelement](http://www.batkenya.com/group/sites/BAT_B4ALXZ.nsf/vwPagesWebLive/DOBQ6B6A/$FILE/BAT_Kenya_Annual_Report_2019.pdf?openelement)

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COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ¹⁰ (Rec 4.9 & 8.3)						
Tobacco Control Regulations – No.29 A person working for the tobacco industry or any setting working to further the interests of the tobacco industry shall not serve on Kenyan delegations to meetings of the Conference of Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.						
INDICATOR 2: Industry CSR activities						
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2)						5
B. The government (its agencies and officials) receives contributions ¹¹ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
<p>The Tobacco Control Regulations in 30(f) does not allow public officials to endorse, support, form partnerships with or participate in activities of the tobacco industry described as corporate social responsibility;</p> <p>BAT made a donation of Kshs.10.6m (US\$100,000) to the COVID-19 Emergency Response Fund, a fund that was established by the President of Kenya H.E. Uhuru Kenyatta.^{12 13}</p> <p>We are yet to establish which other donations BAT has made directly to counties and to other government agencies including schools and hospitals but we can report that Migori County through their Governor H.E. Zachary Obado received some donation towards fighting COVID-19 from BAT.^{14 15}</p> <p>One of the BAT friendly Counties where BAT derives most of the tobacco leaf and where BAT has continued to hold poor farmers hostage through so called CSR activities is Migori County. Our findings while developing this report reveal that the Governor of Migori County who is currently facing corruption charges in handling County Government funds used to live in a rented BAT house¹⁶ before he moved into a palatial home built by County Government funds. DISCLAIMER: We have not been able to obtain documents on the agreements and payments between the County Government of Migori and BAT reasons as to why it was the BAT house that the Governor had to stay in.</p>						
INDICATOR 3: Benefits to the Tobacco Industry						
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of		1				

¹⁰ Please annex a list since 2009 so that the respondent can quantify the frequency,

<http://www.who.int/fctc/cop/en/>

¹¹ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

¹² <https://www.pd.co.ke/news/national/kenya-covid-19-emergency-fund-receives-sh1-29-billion-33750/>

¹³ <https://www.the-star.co.ke/news/2020-04-21-list-of-organisations-with-biggest-donations-to-covid-19-fund/>

¹⁴ <https://www.migorinews.co.ke/news/county-news/lake-victoria-south-and-bat-donates-to-migori-covid-19-mobilisation-kitty/>

¹⁵ <https://twitter.com/GovernorObado/status/1265593933079478273>

¹⁶ <https://www.nation.co.ke/kenya/news/fit-for-a-king-the-splendour-of-homes-built-by-county-bosses-100590>

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tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)						
<p>The Tobacco Control Regulations though enacted in 2014 in Article 1, was given 6 months to be implemented. However it was only until 26th November 2019 that the Government was given a go ahead to fully implement the provisions of the Tobacco Control Regulations 2010 following a protracted court battle. To date therefore, the provisions of the Tobacco Control Regulations 2014 have not been fully implemented due to tobacco industry interference.¹⁷</p> <p>While there is no publicly available evidence of the tobacco industry asking for more time but the implementation of the TC Regulations has been delayed. In 2015, the regulations were contested in Court by British American Tobacco (BAT). On 17 February 2017, the Court of Appeal Kenya¹⁸ at Nairobi upheld the High Court of Kenya’s dismissal of BAT’s legal challenge. BAT moved to the Supreme Court seeking to overturn the ruling of both the High Court and the Court of Appeal and it was only until 26th November 2019 after numerous postponements that the judgement was delivered¹⁹ BAT holds 71.5% of the cigarette market share in Kenya.²⁰ The industry’s continuous appeals on the case through the court ranks is a clear delay tactic, hence postponing implementation of the Regulations.</p> <p>There are a number of pending bills mainly at the county level such as the Nairobi City County Tobacco Control Bill 2018 and the Baringo County Tobacco Control Bill among others. Tobacco Industry tries to defer enactment and implementation through tactics such as lobbying and court action but we have not come across a case where the state has granted extended implementation period during this report’s review period.</p>						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)				3		
<p>The Government listed tobacco products as part of the essential products under Foods and Beverages during the COVID-19 pandemic²¹. When listed as an essential product during the COVID-19 pandemic, then the workers and providers of logistics of those sectors are provided protection and special permits and transport during lockdown. The list of essential products and services was supposed to be only the products and services which are essential to the sustenance and lives and hence the need to guarantee their provision and access during this time of COVID-19 pandemic.</p> <p>The Tobacco Control Regulations (TCR) 2014 states in 32- A public authority shall not grant incentives, privileges, benefits or any other preferential treatment to the tobacco industry to establish or run their businesses. Kenya increased excise tax on tobacco by 20% in 2019.²² BAT described this tax increase in its annual report as “excessive and unpredictable” which increases and threatens the sustainability of tobacco businesses.</p>						

¹⁷ TobaccoTactics. Kenya – Country Profile https://www.tobaccotactics.org/index.php?title=Kenya-Country_Profile

¹⁸ <https://www.tobaccocontrollaws.org/litigation/decisions/ke-20170217-british-american-tobacco-ltd-v>

¹⁹ <http://kenyalaw.org/caselaw/cases/view/185959/>

²⁰ <https://citizentv.co.ke/business/bat-kenya-losing-market-share-blames-counterfeit-cigarettes-244951/>

²¹ <https://www.the-star.co.ke/news/2020-04-08-kenya-lists-alcohol-tobacco-among-essential-products/>

²² BAT Annual Report. Pg 8

[http://www.batkenya.com/group/sites/BAT_B4ALXZ.nsf/vwPagesWebLive/DOBQ6B6A/\\$FILE/BAT_Kenya_Annual_Report_2019.pdf?openelement](http://www.batkenya.com/group/sites/BAT_B4ALXZ.nsf/vwPagesWebLive/DOBQ6B6A/$FILE/BAT_Kenya_Annual_Report_2019.pdf?openelement)

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INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ²³) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						5
<p>In 2018, Cabinet Secretary for Youth and Gender Prof. Margaret Kobia attends an event to award BAT Kenya Best Employer of the Year Award. The event is also sponsored by BAT.^{24 25}</p> <p>Deputy President of The Republic of Kenya Dr. William Ruto graced the Gala Dinner for the award of winners of the Kenya Exporter of the Year Awards 2019 at which British American Tobacco (BAT) Kenya Limited was awarded the Solid Rock Commendation (Lifetime Achievement) award²⁶. Alongside the Deputy President Dr. William Ruto, the CS Ministry of Industry, Trade and Cooperatives, Hon. Peter Munya, EPC Chief Executive Officer, Mr. Peter Kibet Biwott were also in attendance amongst other government officials.²⁷ The Kenya Exporter of the Year Award is a project of Kenya Export Promotion Council (EPC) which is a state agency.</p> <p>The Chief Administrative Secretary Ministry of Petroleum and Mining Eng John Mosonik represented Government at the 2019 Kenya Manufacturers Association (KAM) Energy Management Awards event at which BAT Kenya was the Best Company in Electricity Savings, Water Savings & Sustained High Performance Award and recognised as the second overall winner.²⁸</p> <p>The Tobacco Control Regulations 22. (1) Any interactions between public authorities or public officers and the tobacco industry shall be limited to the extent strictly necessary for effective tobacco control and enforcement of relevant laws.</p>						
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)	0					
<p>The Tobacco Control Regulations forbids the government from accepting any assistance from the tobacco industry on any enforcement activities.</p> <p>BAT's website mentions, "As a key stakeholder in the tobacco industry, we fully support local governments, regulators and government agencies including Kenya's Inter-Agency Anti-Illicit Working Group and the Anti-Counterfeit Agency, regional bodies including the EAC and COMESA as well as international organisations such as the World Trade Organization and World Health Organization, in seeking to eliminate all forms of illicit tobacco trade."²⁹</p>						

²³ Includes immediate members of the families of the high-level officials

²⁴ Business Daily. BAT feted as Kenya's best employer; 25 Sep 2018 <https://ntv.nation.co.ke/news/2720124-4772280-yin6xq/index.html> <https://www.youtube.com/watch?v=n4s68ifpSzc>

²⁵ Standard Digital BAT Kenya recognised as top employer twice in a row; 5 Oct 2018

<https://www.standardmedia.co.ke/article/2001298106/bat-kenya-recognized-as-a-top-employer>

²⁶ <https://www.capitalfm.co.ke/business/2019/07/best-performing-exporters-recognized-at-epc-awards/>

²⁷ <https://www.netfund.go.ke/netfund-awards-exemplary-local-export-businesses-by-mapesa-okumu/>

²⁸ <https://kam.co.ke/kenya-breweries-is-the-most-energy-efficient-industry-in-2019/>

²⁹ http://www.batkenya.com/group/sites/BAT_B4ALXZ.nsf/vwPagesWebLive/DO9T5KJU

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However there is no specific information on what kind of support BAT is offering the local governments, regulators and all the other agencies listed therein.						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>	0					
The Tobacco Control Regulations forbids the government from entering into any partnership or agreements with the tobacco industry.						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)		1				
TC Regulations in 22 sets out the procedure for all interaction between the government officials and the tobacco industry: (1) Any interactions between public authorities or public officers and the tobacco industry shall be limited to the extent strictly necessary for effective tobacco control and enforcement of relevant laws. (2) A minimum of two public officers shall be present in any interactions with the tobacco industry. (3) Before commencing any interaction with the tobacco industry, the public officers shall state, in writing, that the interaction does not imply an endorsement of tobacco industry practices and that that no relationship, collaboration or partnership shall be construed whatsoever from the interaction.						
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)		1				
The Tobacco Control Regulations 2014, in Part III; 139e) requires the tobacco manufacturer to, at the end of every calendar year, to submit a report to the Cabinet Secret information, including, (e) affiliated organizations and its agents or persons acting on its behalf. ³⁰ However this has not been implemented.						
INDICATOR 6: Conflict of Interest						
13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)		1				

³⁰ The Tobacco Control Act 2014 http://kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/169-Tobacco_Control_Regulations_2014

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TCR 2014 Section 34 states that “Every public authority involved in tobacco control shall at the end of every calendar year, prepare and submit an annual report on the implementation of this Part to the Board 2) A report prepared and submitted pursuant to paragraph (1) shall specify- (a) the measures undertaken during that period to implement this part; (b) the achievements and shortcomings relating to implementation of this part and actions proposed to improve performance in furtherance of this part; (c) any lobbying, philanthropy, political contributions and all other activities by the tobacco industry; (d) any business and non-business partners and supporters of tobacco industry involved with the public authority” However this has not been implemented.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)			2			
Martin Oduor Otieno, Board Member BAT (K) ³¹ was a former Permanent Secretary Ministry of Finance 1999 – 2001, ³² served as part of the Dream Team appointed by President Moi to turn around the Kenyan Economy. Martin also served as the Chief Executive Officer of the Kenya Commercial Bank (KCB) between 2007 and 2012 ³³ . KCB is a fully Government owned bank. ³⁴						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)				3		
Ruth Ngobi has since been replaced as the BAT (K) Company Secretary by Ms. Waeni Ngea. Ms. Ngea was already working for BAT (K) at hence it’s an internal promotion. Carol Musyoka ³⁵ is a member of the Board of Directors of BAT(K) ³⁶ while also the Chairperson of the Board of Directors of Business Registration Services (BRS) ³⁷ which is a department under the Office of the Attorney General whose mandate is to oversee the operations of the Companies Registry, Movable Property Security Rights Registry (Collateral Registry), Insolvency						

³¹ Board of BAT https://en.wikipedia.org/wiki/Martin_Oduor-Otieno

³² Permanent Secretary Ministry of Finance
<https://nairobinews.nation.co.ke/featured/why-every-bank-wants-a-piece-of-oduor>
<https://www.nation.co.ke/lifestyle/1190-344908-ffcembz/index.html>

³³ https://en.wikipedia.org/wiki/Martin_Oduor-Otieno

³⁴ https://en.wikipedia.org/wiki/KCB_Group#Overview

³⁵ <https://biography.omicsonline.org/kenya/east-african-breweries-ltd/carol-musyoka-592227>

³⁶ http://www.batkenya.com/group/sites/BAT_B4ALXZ.nsf/vwPagesWebLive/DOB4AM86

³⁷ <https://brs.go.ke/board.php>

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(Official Receivers) Registry and the Hire Purchase Registry. Carol Musyoka also served as a Board Member of Competition Authority of Kenya (CAK) ³⁸ during the period under review. The Tobacco Control Act, No.26 A public officer who has or has had a role in setting public health policies with respect to tobacco control (b) shall not engage in such occupational activity within a period of three years from the time the persons ceases being a public officer.						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)					4	
Tobacco Control Regulations (TCR) 2014 in Section 22(4) states that “Any public officer participating in any interaction with tobacco industry shall prepare a formal record of the interaction and submit to the relevant public authorities including the Cabinet Secretary on request,” However, there is no implementing procedure in place to disclose all records of interactions as envisaged by TCR 2014.						
17. The government has 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. (Rec 4.2)					4	
Part V No.24 provides: The Cabinet Secretary shall prescribe a code of conduct prescribing standards for any public officer including service providers, contractors consultants involved in setting or implementing public health policies for tobacco control. The Code of Conduct is yet to be developed.						
18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)					4	
Part III of TCR 2014 specifies the information to be provided by the manufacturers. This includes information on composition and quality of tobacco products, market share, sales and revenue earned and information on affiliate organisations and agents. However, information on marketing expenditure, lobbying, philanthropy, political contributions are not listed as information needed to be provided for by manufacturers, According to the 2016 report submitted by the government to the COP, “The Ministry of Health would have an inventory of the reports from Tobacco Industry and this would be						

³⁸ <https://www.cak.go.ke/sites/default/files/annual-reports/FY%202017-2018%20CAK%20Annual%20Report.pdf>

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<p>accessible to the public upon request. Maybe in the recommendations we could in future establish a repository that can be readily available for access to the public.”³⁹</p> <p>As of 2019 there is no progress on this inventory and the government’s plan has not made any progress.</p>						
<p>19. The government has a program / system/ plan to consistently⁴⁰ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)</p>				3		
<p>The TC Regulations requires public authority in 30(b) adopt mechanisms to raise awareness within its mandate about the interference and vested interests of tobacco industry with the development and enforcement of tobacco control legislations and policies;</p> <p>There is no record of the existence of a mechanism to raise awareness according to the TC Regulations.</p>						
<p>20. 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. (3.4)</p>		1				
<p>TCR 31. (1) Any entity which is part of the tobacco industry shall not grant any monetary and non-monetary payments, gifts and services to public authorities or a public officer. (2) A public authority or officer shall not receive any monetary or non-monetary payment, gift or favour from tobacco industry. (3) A public authority or officer who contravenes this Regulation commits an offence. There is no publicly available information on whether this provision was contravened.</p>						
TOTAL				40		

³⁹ Kenya 2016 report the COP https://untobaccocontrol.org/impldb/wp-content/uploads/reports/kenya_2016_report_final.pdf

⁴⁰ For purposes of this question, “consistently” means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.