

UNITED STATES OF AMERICA

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Background and Introduction

Each year, more than 480,000 die in the United States due to cigarette use, accounting for one in five deaths annually.¹ This figure makes tobacco use the primary cause of preventable death in the country. Despite this, tobacco use continues to be prevalent. According to the Centers for Disease Control and Prevention, about 40 million adults are smokers, whereas 4.7 million middle and high school students use tobacco products, which include e-cigarettes, in the country.²

The tobacco industry continues to perpetuate and exacerbate this public health problem. Through various strategies, the tobacco industry meddles with regulatory action designed to protect public health from the dangers of using tobacco products. According to Article 5.3 of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), states should protect public health policies on tobacco control from industry interference.

Shedding light on tobacco interference can have a massive impact on policymaking. Accurate reporting on industry interference raises awareness and creates an atmosphere conducive to effective lawmaking. It promotes transparency and accountability among lawmakers and regulatory actors. In the United States, as in most countries, the tobacco industry thrives in opacity where its strategies to influence policy are shielded and hidden from public scrutiny.

Strict monitoring and reporting of tobacco industry interference in policymaking is a must. Towards this end, the Global Tobacco Industry Interference Index (Global Tobacco Index) was formulated to objectively assess the level of tobacco industry interference globally. The Global Tobacco Index, which is based on publicly available data, scores countries based on their responses to interference from the tobacco industry. A higher score means a higher degree of overall interference.

This is the second year that we are using the Global Tobacco Index to quantify tobacco industry interference in public policy in the United States. In 2018, the country scored 72/100, reflecting a high level of interference, placing the country among the top of worst performing countries in terms of shielding itself from tobacco industry interference. This year, the United States garnered an overall score of **66**, indicating some progress but still an unacceptably high level of interference in government, public health policy and lawmaking.

Major tobacco industry players in the United States include Altria Group Inc., Reynolds American Inc. and Imperial Brands PLC.³ In 2019, cigarette and tobacco manufacturing in the United States amounted to USD 47.8 million.⁴ Popular brands include: Marlboro, Virginia Slims, Black and Mild, Camel, American Spirit and Grizzly chewing tobacco. The leading e-cigarette company, JUUL Labs, is partially owned by Altria, which is diversifying its nicotine product line.

While the United States is not a party to the WHO FCTC, it did participate in the negotiations and even signed the treaty in 2004. Although not legally bound by the WHO FCTC, its signature shows an intention to ratify the treaty and carries with it the duty not to undermine the treaty's object and purpose.

¹ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm.

² https://www.cdc.gov/tobacco/data_statistics/index.htm.

³ <https://www.ibisworld.com/united-states/market-research-reports/cigarette-tobacco-manufacturing-industry/>.

⁴ <https://www.statista.com/statistics/491709/tobacco-united-states-market-value/>.

There are two significant limitations to undertaking the Index in the U.S. The first is the scope of domestic policy making. For most countries, public health is regulated at the national level. The points of entry for the tobacco industry in these countries are limited; one legislature, one executive branch, one regulatory ministry or department. In the U.S., tobacco control policy is addressed at the national, state and local levels. There are thousands of points of entry, and while the tobacco industry is more powerful at the federal and state levels, they or their proxies are consistently present at every level. It was beyond the scope of this project to undertake a thorough survey of every jurisdiction's experience during the period covered by this report. The data collected should be read as a sample of tobacco industry interference rather than a comprehensive tally.

Second, many government-industry interactions that are forbidden under the FTC are not only legal but constitutionally protected in the U.S. Industry lobbyists need not hide their efforts, other than to avoid negative publicity. This reality further increases the number of potential data points. It is unlikely that laws governing industry lobbying will change in the near future. Our efforts in the U.S. are therefore meant to shine a light on industry interference and raise the awareness of policy makers.

Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

In terms of tobacco control and regulation, domestic policymaking in the United States is not concentrated in one central authority. Rather, it occurs at various levels, from the federal and state to the local governments.

At the federal level, regulation is lodged mainly with the Food and Drug Administration (FDA). For tobacco regulation in particular, the FDA Tobacco Products Scientific Advisory Committee reports and recommends to the FDA Commission on the safety and health issues relating to tobacco products. The Committee comprises 12 members, nine of which are voting members and come from the medical or scientific fields. The three non-voting members, however, are identified with industry interests. Of these three non-voting members, one representative must come from the tobacco manufacturing industry, one from tobacco growers, and one from small business tobacco manufacturing industry.⁵

In 2019, the tobacco industry spent USD 28,085,063 on lobbying,⁶ up from the USD 23,426,000 in 2018.⁷ Lobbying efforts included initiatives to raise the minimum age of purchase to 21. Health advocates, however, warned that this is an old strategy employed by tobacco companies to appear good while pushing for weaker legislation that provides for exemptions, pre-empts stricter local measures, and guarantees ineffectual enforcement.⁸ It also relieves pressure off tobacco and e-cigarette companies from other regulatory concerns, such as flavored pods and targeted advertisement.

⁵ <https://www.fda.gov/advisory-committees/committees-and-meeting-materials/tobacco-products-scientific-advisory-committee>.

⁶ <https://www.opensecrets.org/federal-lobbying/industries/summary?cycle=2019&id=A02>.

⁷ <https://www.opensecrets.org/federal-lobbying/industries/summary?cycle=2018&id=A02>.

⁸ <https://publicintegrity.org/state-politics/copy-paste-legislate/big-tobaccos-surprising-new-campaign-to-raise-the-smoking-age/>.

In September 2019, new e-cigarette giant, JUUL Labs, provided investments made investments to the New Democrat Coalition Action Fund (\$5,000), Clay Jr. for Congress (USD1,000).⁹

In December 2019, President Trump signed into law a federal legislation raising the minimum age of purchase to 21.¹⁰ The law came from a bill endorsed by Majority Leader Republican Senator Mitch McConnell and Virginia Democratic Senator Tim Kaine, who are both recipients of campaign donations from the tobacco industry.¹¹

2. INDUSTRY CSR ACTIVITIES

Companies often employ corporate social responsibility (CSR) activities to build goodwill and boost their reputation with the community. The same is true with the tobacco industry, which funds cessation programs, provides research grants to schools, among others, as CSR tactics.¹² These activities, however, are veiled attempts to present a socially responsible image to deflect criticisms from unethical practices.

In 2019, Juul donated \$7.5 million to Meharry Medical College, a historically black college, to fund a public health center.¹³

3. BENEFITS TO THE INDUSTRY

In May 2019, a federal judge ordered the FDA to start the review of e-cigarettes and finish the same by May 2020. The judge ruled that the FDA failed to enforce its mandate when it allowed the sale of e-cigarettes, including flavored ones that appeal to the youth, without reviewing their health effects. Recently, however, the FDA asked for a 120-day extension due to the COVID-19 pandemic. The request for extension has been granted.¹⁴

In September 2019, the Trump administration also announced its plan to stop the sale of flavored e-cigarettes unless the manufacturers can present public health benefit.¹⁵ By November 2019, the administration indicated that it may reverse itself and has not moved forward with its original plan.¹⁶

4. UNNECESSARY INTERACTION

Corporate lobbyist that represent the tobacco industry mingled with Senate Majority Leader Mitch McConnell at a fundraiser for the National Republican Senate Committee hosted by two former McConnell staffers.¹⁷

⁹ <https://blogs.bmj.com/tc/2020/03/22/world-tobacco-industry-hydras-many-political-investment-heads/>.

¹⁰ <https://www.fda.gov/tobacco-products/ctp-newsroom/newly-signed-legislation-raises-federal-minimum-age-sale-tobacco-products-21>.

¹¹ <https://publicintegrity.org/state-politics/copy-paste-legislate/big-tobaccos-surprising-new-campaign-to-raise-the-smoking-age/>.

¹² https://tobaccotactics.org/index.php/CSR_Strategy.

¹³ Hartmann-Boyce J, Begh R, Aveyard PJB. Electronic cigarettes for smoking cessation. 2018;360;j5543.

¹⁴ <https://www.cspdailynews.com/tobacco/pmta-deadline-delay-granted>.

¹⁵ <https://truthinitiative.org/research-resources/emerging-tobacco-products/action-needed-e-cigarettes>.

¹⁶ <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>.

¹⁷ <https://www.politico.com/newsletters/politico-influence/2019/05/14/republican-lobbyists-to-mingle-with-mcconnell-at-nrsc-fundraiser-436358>.

The same month McConnell announced the bill to increase the purchase age of tobacco, members of the vaping industry trade group Vapor Technology Association met with McConnell's staff.¹⁸

5. TRANSPARENCY

At the federal level, the FDA has no policies regarding disclosure of public comments on cases in its dockets. It also does not have disclosure policies on communications between FDA officials and representatives from the tobacco industry.

At the state level, most states do not require lawmakers to disclose the full extent of their engagements with lobbyists. However, all states do have laws on registration of lobbyists and entities who engage their services. This information is available to the public.¹⁹

For the tobacco industry in particular, several laws mandate disclosure of certain information. The Family Smoking Prevention and Control Act requires annual registration of tobacco companies. The Federal Lobbying Disclosure Act requires registration of in-house lobbying for firms that meet a certain income/expense minimum. Tobacco firms are also required to secure permits from the Alcohol and Tobacco Tax and Trade Bureau and the Internal Revenue Service.

6. CONFLICT OF INTEREST

The United States have a long history of tobacco interference through active political, lobbying. For the 2020 election cycle, a total of \$2,759,084 of political campaign contributions is from the tobacco industry.²⁰

In 2019, of the 280 tobacco lobbyists reported by the Center for Responsive Politics, 217 are “revolvers” or former government regulators, congressional staff, or members of Congress who are now employed by lobbying firms or the private sector.²¹

Tobacco industry influence can be found at the highest level of government. For example, Altria Client Services is run by U.S. Senate Majority Leader Mitch McConnell's former chief of staff, Steven Law, two former McConnell staffers, Hunter Bates and Brendan Dunn are partners at lobbying firm Akin Gump Strauss Hauer & Feld and the firm lobbied Congress for Altria on tobacco 21 legislation.²² Hazen Marshall, Mitch McConnell's former policy director, registered to lobby for Altria on “issues related to the regulation of tobacco products, tobacco excise taxes, corporate taxes, and Tobacco 21 legislation” in April and Texas Senator John Cornyn's recent chief of staff left Congress in January to open a lobbying firm called Marshall & Popp.²³

The United States rule promulgation system is extremely complex involving multiple agencies and oversight and guidance by both the executive and legislative branches. Navigating the system is difficult, and individual officials who understand it need not be in

¹⁸ <https://www.npr.org/2019/06/17/730496066/tobaccos-special-friend-what-internal-documents-say-about-mitch-mcconnell>.

¹⁹ Matheny JD, Stevens EM, Chen S, Christiansen BA, Kowitt SD, Osman A, Vidrine DJ. The RICO Verdict and Corrective Statements: Catalysts for Policy Change? *Tob Regul Sci.* 2019;5(3):206-228.

²⁰ <https://www.opensecrets.org/industries/totals.php?cycle=2020&ind=a02>.

²¹ <https://www.opensecrets.org/federal-lobbying/industries/lobbyists?cycle=2019&id=A02>.

²² <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>.

²³ <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>.

powerful positions to strongly influence results. The tobacco industry has long been successful in placing its former employees in key positions throughout the bureaucracy.

7. PREVENTIVE MEASURES

The FDA Tobacco Scientific Advisory Committee provides links to agendas, rosters, webcasts, presentations, public submissions, minutes and questions for their meetings. Federal oversight is also conducted by several government agencies (for example FDA, IRS, CDC, ATB).

However, there is no code of conduct for government officials when dealing with the private sector. In fact, there are no policies that disallow acceptance of gifts or contributions from the industry to government agencies and officials. There are also no awareness programs regarding WHO FCTC Article 5.3 to help guide public officials in dealing with the tobacco industry.

Recommendations

1. **Ratify the WHO FCTC.** The United States participated in the negotiations and signed the WHO FCTC. However, it remains to be a non-party to the treaty. Thus, it should ratify the WHO FCTC and enact a federal law that will implement it.
2. **Restrict lobbying.** Lobbying is constitutionally protected, and a total ban is impossible. However, lobbying may be restricted by requiring full disclosure of expenditures related to tobacco control legislation. Since the tobacco industry operates as furtively as it can, full disclosure requirements will deter it in interfering with public policy.
3. **Adopt an official code of conduct.** Public office is a public trust. The principal objective of each public official is the welfare of the people. Hence, an official code of conduct should be adopted to prevent or lessen interference from industries sought to be regulated. Strict rules against conflict of interest should be implemented.
4. **Require disclosures of interaction with the tobacco industry.** Government officials should disclose interactions with tobacco industry representatives, including transcripts of meetings.
5. **Divest from tobacco.** Several states and localities have already complied with Article 5.3 requirements to divest from tobacco; others should follow.
6. **Educate lawmakers to leverage support.** Advocates can share fact sheets to inform lawmakers of key findings from the federal racketeering case. They can also identify and distribute state-specific quotes from internal tobacco industry documents illustrating examples of historical interference in each state. Advocates can also leverage strong public support for lawmakers to correct all current laws influenced by tobacco companies (including preemption). Advocates can also leverage earned media strategies to raise awareness of tobacco industry interference and the need to enact effective policies.

Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ²⁴ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ²⁵ in setting or implementing public health policies in relation to tobacco control ²⁶ (Rec 3.1)						5
<p>In 2019, the tobacco industry spent USD 28,085,063 on lobbying,²⁷ up from the USD 23,426,000 in 2018.²⁸ Lobbying efforts included initiatives to raise the minimum age of purchase to 21. Health advocates, however, warned that this is an old strategy employed by tobacco companies to appear good while pushing for weaker legislation that provides for exemptions, pre-empts stricter local measures, and guarantees ineffectual enforcement.²⁹ It also relieves pressure off tobacco and e-cigarette companies from other regulatory concerns, such as flavored pods and targeted advertisement.</p> <p>In September 2019, new e-cigarette giant, JUUL Labs, provided investments made investments to the New Democrat Coalition Action Fund (\$5,000), Clay Jr. for Congress (USD1,000).³⁰</p> <p>Juul Labs Inc. spent \$1.2 million on federal lobbying during the third quarter 2019 (July through September 30) more than double the \$560,000 the spent during the same timeframe in 2018.³¹</p> <p>The FDA’s Tobacco Products Scientific Advisory Committee (TPSAC) voted 8-0, with 1 abstention, that Altria’s proposed “modified risk” claim for Copenhagen Snuff Fine Cut is scientifically accurate.³²</p>						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)						5
<p>In December 2019, President Trump signed into law a federal legislation raising the minimum age of purchase to 21.³³ The law came from a bill endorsed by Majority Leader Republican Senator Mitch McConnell and Virginia Democratic Senator Tim Kaine, who are both recipients of campaign donations from the tobacco industry.³⁴</p>						

²⁴ 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

²⁵ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

²⁶ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

²⁷ <https://www.opensecrets.org/federal-lobbying/industries/summary?cycle=2019&id=A02>

²⁸ <https://www.opensecrets.org/federal-lobbying/industries/summary?cycle=2018&id=A02>

²⁹ <https://publicintegrity.org/state-politics/copy-paste-legislate/big-tobaccos-surprising-new-campaign-to-raise-the-smoking-age/>

³⁰ <https://blogs.bmj.com/tc/2020/03/22/world-tobacco-industry-hydras-many-political-investment-heads/>

³¹ https://www.washingtonpost.com/business/on-small-business/juul-spent-record-12-million-lobbying-as-regulators-stepped-up/2019/10/22/2a0dbc52-f4de-11e9-b2d2-1f37c9d82dbb_story.html

³² <https://www.medpagetoday.com/primarycare/smoking/77895>

³³ <https://www.fda.gov/tobacco-products/ctp-newsroom/newly-signed-legislation-raises-federal-minimum-age-sale-tobacco-products-21>

³⁴ <https://publicintegrity.org/state-politics/copy-paste-legislate/big-tobaccos-surprising-new-campaign-to-raise-the-smoking-age/>

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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)						5
<p>In terms of tobacco control and regulation, domestic policymaking in the United States is not concentrated in one central authority. Rather, it occurs at various levels, from the federal and state to the local governments.</p> <p>At the federal level, regulation is lodged mainly with the Food and Drug Administration (FDA). For tobacco regulation in particular, the FDA Tobacco Products Scientific Advisory Committee reports and recommends to the FDA Commission on the safety and health issues relating to tobacco products. The Committee comprises 12 members, nine of which are voting members and come from the medical or scientific fields. The three non-voting members, however, are identified with industry interests. Of these three non-voting members, one representative must come from the tobacco manufacturing industry, one from tobacco growers, and one from small business tobacco manufacturing industry.³⁵</p>						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ³⁶ (Rec 4.9 & 8.3)	0					
The U.S. is not a Party to WHO FCTC.						
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 ³⁷ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
<p>Companies often employ corporate social responsibility (CSR) activities to build goodwill and boost their reputation with the community. The same is true with the tobacco industry, which funds cessation programs, provides research grants to schools, among others, as CSR tactics.³⁸ These activities, however, are veiled attempts to present a socially responsible image to deflect criticisms from unethical practices.</p> <p>In 2019, Juul donated \$7.5 million to Meharry Medical College, a historically black college, to fund a public health center.³⁹ Moreover, Freeland USA received funding from PMI-IMPACT to set up ACET– while this is an NGO initiative, it also partners with governments and its</p>						

³⁵ <https://www.fda.gov/advisory-committees/committees-and-meeting-materials/tobacco-products-scientific-advisory-committee>

³⁶ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

³⁷ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

³⁸ https://tobaccotactics.org/index.php/CSR_Strategy

³⁹ Hartmann-Boyce J, Begh R, Aveyard PJB. Electronic cigarettes for smoking cessation. 2018;360;j5543.

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purpose is to “help governments find traffickers and repossess their assets to fund the recovery of damaged communities, wildlife populations, and ecosystems.” ⁴⁰						
The ConradChallenge is a recipient of the FSFW funds for 2018. The other partners ConradChallenge are NASA. The competition culminates at the Innovation Summit held at the Kennedy Space Center Visitor Complex which is sponsored by NASA.						
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 tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)						5
In May 2019, a federal judge ordered the FDA to start the review of e-cigarettes and finish the same by May 2020. The judge ruled that the FDA failed to enforce its mandate when it allowed the sale of e-cigarettes, including flavored ones that appeal to the youth, without reviewing their health effects. Recently, however, the FDA asked for a 120-day extension due to the COVID-19 pandemic. The request for extension has been granted. ⁴¹						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)					4	
In September 2019, the Trump administration also announced its plan to stop the sale of flavored e-cigarettes unless the manufacturers can present public health benefit. ⁴² By November 2019, the administration indicated that it may reverse itself and has not moved forward with its original plan. ⁴³						
International travelers are allowed to bring into the USA: 200 cigarettes, a reasonable amount of tobacco and 100 cigars.						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ⁴⁴) 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)				3		
<ul style="list-style-type: none"> • Corporate lobbyist that represent the tobacco industry mingled with Senate Majority Leader Mitch McConnell at a fundraiser for the National Republican Senate Committee hosted by two former McConnell staffers.⁴⁵ • The same month McConnell announced the bill to increase the purchase age of tobacco, members of the vaping industry trade group Vapor Technology Association 						

⁴⁰ <https://www.freeland.org/post/new-data-fusion-center-illuminates-criminal-underworld>

⁴¹ <https://www.cspdailynews.com/tobacco/pmta-deadline-delay-granted>

⁴² <https://truthinitiative.org/research-resources/emerging-tobacco-products/action-needed-e-cigarettes>

⁴³ <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>

⁴⁴ Includes immediate members of the families of the high-level officials

⁴⁵ Theodor Meyer. Republican lobbyists to mingle with McConnell at NRSC fundraiser. Politico

<https://www.politico.com/newsletters/politico-influence/2019/05/14/republican-lobbyists-to-mingle-with-mcconnell-at-nrsc-fundraiser-436358>

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met with McConnell's staff. ⁴⁶						
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					
None identified.						
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					
None identified.						
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)				3		
<p>At the federal level, the FDA has no policies regarding disclosure of public comments on cases in its dockets. It also does not have disclosure policies on communications between FDA officials and representatives from the tobacco industry.</p> <p>At the state level, most states do not require lawmakers to disclose the full extent of their engagements with lobbyists. However, all states do have laws on registration of lobbyists and entities who engage their services. This information is available to the public. ⁴⁷</p>						
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)			2			
<p>For the tobacco industry in particular, several laws mandate disclosure of certain information. The Family Smoking Prevention and Control Act requires annual registration of tobacco companies. The Federal Lobbying Disclosure Act requires registration of in-house lobbying for firms that meet a certain income/expense minimum. Tobacco firms are also required to secure permits from the Alcohol and Tobacco Tax and Trade Bureau and the Internal Revenue Service.</p>						
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)						5

⁴⁶ Tom Dreisbach. Tobacco's 'Special Friend': What Internal Documents Say About Mitch McConnell. June 17, 2019.

<https://www.npr.org/2019/06/17/730496066/tobaccos-special-friend-what-internal-documents-say-about-mitch-mcconnell>.

⁴⁷ Matheny JD, Stevens EM, Chen S, Christiansen BA, Kowitt SD, Osman A, Vidrine DJ. The RICO Verdict and Corrective Statements: Catalysts for Policy Change? Tob Regul Sci. 2019;5(3):206-228.

The United States have a long history of tobacco interference through active political, lobbying. For the 2020 election cycle, a total of \$2,759,084 of political campaign contributions is from the tobacco industry.⁴⁸

In 2019, of the 280 tobacco lobbyists reported by the Center for Responsive Politics, 217 are “revolvers” or former government regulators, congressional staff, or members of Congress who are now employed by lobbying firms or the private sector.⁴⁹

14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)						5
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- Altria Client Services is run by U.S. Senate Majority Leader Mitch McConnell’s former chief of staff, Steven Law⁵⁰
- Two former McConnell staffers, Hunter Bates and Brendan Dunn are partners at lobbying firm Akin Gump Strauss Hauer & Feld. The firm lobbied Congress for Altria on tobacco 21 legislation.⁵¹
- Hazen Marshall, Mitch McConnell’s former policy director, registered to lobby for Altria on “issues related to the regulation of tobacco products, tobacco excise taxes, corporate taxes, and Tobacco 21 legislation” in April.⁵²
- Texas Senator John Cornyn’s recent chief of staff left Congress in January to open a lobbying firm called Marshall & Popp.⁵³

The United States rule promulgation system is extremely complex involving multiple agencies and oversight and guidance by both the executive and legislative branches. Navigating the system is difficult, and individual officials who understand it need not be in powerful positions to strongly influence results. The tobacco industry has long been successful in placing its former employees in key positions throughout the bureaucracy.

15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0					
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None identified for this period

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)			2			
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The FDA Tobacco Scientific Advisory Committee provides links to agendas, rosters, webcasts, presentations, public submissions, minutes and questions for their meetings. Federal oversight is also conducted by several government agencies (for example FDA, IRS, CDC, ATB).

⁴⁸ <https://www.opensecrets.org/industries/totals.php?cycle=2020&ind=a02>.

⁴⁹ <https://www.opensecrets.org/federal-lobbying/industries/lobbyists?cycle=2019&id=A02>.

⁵⁰ <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>.

⁵¹ <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>.

⁵² <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>.

⁵³ <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>.

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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)						5
There is no code of conduct for government officials when dealing with the private sector (i.e. tobacco industry).						
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)			2			
All 50 states have laws on registration of lobbyists and entities who engage with policymakers. This information is available to the public.						
19. The government has a program / system/ plan to consistently ⁵⁴ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)						5
There are also no awareness programs regarding WHO FCTC Article 5.3 to help guide public officials in dealing with the tobacco industry.						
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)						5
There are no policies that disallow acceptance of gifts or contributions from the industry to government agencies and officials.						
TOTAL						66

⁵⁴ 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.