

South Africa



SUMMARY OF FINDINGS

1. Industry Participation in Policy Development

There is no direct evidence that the government accepted offers of support, assistance, or collaboration from the tobacco industry (TI) in setting or implementing public health policies. However, the TI actively attempted to influence policy development and public opinion, particularly through engagements with non-health professionals during legislative processes. While the government did not adopt industry-drafted policies, the TI submitted proposals opposing key measures and excise tax increases. Industry-aligned organizations also participated in public hearings and lobbied against the bill, citing economic and legal concerns.

2. Industry CSR Activities

Although current legislation prohibits contributions for advertising purposes, it still allows charitable donations, creating a loophole that permits TI-sponsored corporate social responsibility (CSR) activities. During this reporting period, one instance of direct government engagement in an industry-branded CSR activity was documented, which was used by the TI for media promotion, raising concerns about image enhancement and public influence.

3. Benefits to the Industry

Key tobacco control measures have faced prolonged delays due to persistent TI interference. The ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products has been stalled for over a decade, and the Tobacco Products and Electronic Delivery Systems Control Bill [B33-2022], introduced in 2018, remains blocked by widespread industry opposition. These delays hinder efforts to curb illicit trade, secure the tobacco supply chain, and enforce comprehensive regulation. The failure to ratify the protocol enables continued unregulated trade, which benefits the TI. While the TI claims that higher taxes fuel illicit markets, the primary driver is weak enforcement.

4. Unnecessary Interaction

There is no direct evidence of government funding or assistance from the TI for enforcement. However, the South African Revenue Service (SARS) has acknowledged collaboration with “TI experts” to detect illicit cigarettes, with limited transparency. Furthermore, the government’s partnership with Business Against Crime South Africa, which includes organizations linked to the TI, raises concerns about potential influence over law enforcement strategies, particularly within the Joint Initiative on Crime and Corruption, a high-level initiative led by the Presidency.

The government also signed a Memorandum of Understanding with the TI (BAT, PMI, JTI, Imperial Brands) through law enforcement and customs agencies to address illicit trade. This agreement lacks transparency and oversight, potentially allowing the TI to influence enforcement-related policy.

5. Transparency

The government does not disclose its interactions with the TI, even when such engagements are necessary for regulation. There is no publicly accessible record of meetings or correspondence, and no obligation to report such interactions.

6. Conflict of Interest

There is no prohibition on contributions from the TI to political parties or candidates. While the Political Party Funding Act (PPFA) of 2018 initially improved transparency, recent amendments under the Electoral Matters Amendment Bill (2023) have weakened disclosure requirements, increasing the risk of undisclosed funding from tobacco-related entities and potential policy influence.

There is no new evidence of direct employment of retired senior officials in the TI. However, former officials such as an ex-supreme court judge and former HPCSA president have been active in TI-aligned initiatives, promoting harm

reduction narratives and legitimizing industry positions. This raises concerns about indirect influence. There is no publicly available evidence of current government officials or their relatives holding positions in the TI.

7. Preventive Measures

The government has made no progress in enhancing transparency or accountability regarding its interactions with the TI. There is no formal procedure to disclose meetings or engagements, and the 2015 draft code of conduct for public officials remains unfinalized, leaving officials without clear guidance on managing industry interactions.

The TI is not required to disclose lobbying, political donations, or marketing and CSR activities. Enforcement of existing regulations is weak, with efforts such as SARS's monitoring system being blocked by domestic manufacturers. There is no internal program to raise awareness among public officials about their obligations under Article 5.3 of the WHO FCTC, increasing vulnerability to industry influence.

RECOMMENDATIONS

1. Finalize the Tobacco Products and Electronic Delivery Systems Control Bill [B33-2022] and close legislative loopholes.
2. Ratify the Protocol to Eliminate Illicit Trade in Tobacco Products to strengthen enforcement and supply chain regulation.
3. Safeguard policymaking from TI interference by monitoring and publishing registers of companies affiliated with the TI. Establish a mandatory disclosure and transparency policy for all government officials on interactions with industry or affiliated entities, including indirect partnerships.
4. Screen and regulate industry-affiliated entities in multi-sectoral partnerships to ensure compliance with public health goals.
5. Finalize and implement a whole-of-government code of conduct, including non-health sectors, to limit interactions with the TI strictly to those necessary for regulation.