

Germany

68

Summary of Findings

1. Industry participation in policy development

In February 2021, the Ministry of Finance came up with a tobacco taxation initiative. The initiative is non-transparent and there is reason to suspect tobacco industry interference.

On a positive note, there were no tobacco industry representatives on government public health committees or delegations to the last session of the Conference of the Parties (COP) to the Framework Convention on Tobacco Control (FCTC).

2. Industry CSR activities

The Federal President (as all Federal Presidents since 1973) partnered with the Körber Foundation, a tobacco industry-related organization.

The Prime Minister of Saxony, Michael Kretschmer, endorsed corporate social responsibility (CSR) activities of Philip Morris International (PMI).

Furthermore, several German states received sponsorship from the tobacco industry or related organizations. For example, the Health Authority of the State of Berlin accepted an offer from PMI to use space and equipment at its former cigarette factory in Berlin for a COVID-19 logistics center.

3. Benefits to the industry

In 2020, the government passed a ban on outdoor advertising for tobacco products and e-cigarettes. However, this long-awaited law is weak and has exemptions which allow the industry to advertise.

The industry also benefits from a tobacco tax exemption for tobacco products that manufacturers offer their employees as an in-kind allowance, amounting to €5 million (US \$5.65 million) in 2020.

4. Unnecessary interaction

Even though the COVID-19 pandemic largely restricted social festivities and other events in 2020, the tobacco industry still managed to foster relationships with and receive endorsements from high-level political decision-makers.

Michael Kretschmer, Prime Minister of Saxony, as well as Stephan Weil, Prime Minister of Lower Saxony, visited tobacco companies. Kretschmer made endorsing remarks about PMI and pictures of his visit were posted on the official website and social media accounts of the Prime Minister as well as on PMI's Twitter account.

Various members of the federal parliament as well as state parliaments participated in events that were organized or sponsored by the tobacco industry.

Additionally, PMI managed to foster relationships with the Trade Union of the Police (GdP) whose members are public officials.



5. Transparency

The government provides only partial transparency on interactions with the tobacco industry. Official meetings with the Ministry of Health and the Ministry of Food and Agriculture are disclosed on their websites, but minutes are not disclosed.

In 2020, there were at least five meetings or interactions between the tobacco industry and high-level government officials that were not strictly necessary for regulation. Most of these only came to light because of parliamentary requests for information.

For the timeframe of this report, Germany did not have a lobby register, but the government passed a law to implement a lobby register from 2022 that will provide partial information.

6. Conflict of interest

Tobacco industry contributions to political parties are not prohibited in Germany. As a result, the governing parties (CDU, CSU and SPD) as well as one of the opposition parties received large donations and sponsorships in 2019/20. These amounted to at least a total of €135,766 (US \$153,419) in donations and €56,667 (US \$64,034) in sponsorship payments. However, this represents just the tip of the iceberg because political parties only have to disclose donations exceeding €10,000 (US \$11,300) and do not have to disclose sponsorship contributions. Only some parties disclose sponsorship contributions on a voluntary basis.

There is no information on current government officials holding positions in the tobacco industry. However, the lobby groups DZV and BVTE are led by Jan Mücke, a former parliamentary state secretary. In addition, a former staff member of the German Federal Institute for Risk Assessment (BfR), Frank Henkler-Stephani, joined the BVTE in 2021. At BfR, he was responsible for the risk assessment regarding novel tobacco products for several years and he was part of the German delegations to COP7 and COP8 of the FCTC.

7. Preventive measures

The government is of the view that the guidelines for the implementation of Article 5.3 are not legally binding and only "assistance" or "recommendations." It takes almost no action in the area of prevention.

There is no requirement of recording and disclosing all interactions with tobacco industry representatives. A code of conduct to prescribe standards for public officials in their interaction with the tobacco industry does not exist. There is no awareness raising program on Article 5.3 and its guidelines and there is no policy to disallow contributions of the tobacco industry to the government.

On a positive note, the government requires the tobacco industry to provide information on marketing expenditures and market shares.



Various members of the federal parliament and state parliaments participated in events organized or sponsored by the tobacco industry.



Recommendations

Adopt a comprehensive national tobacco control strategy, outlining a timeline for the full implementation of the WHO FCTC, such as the Strategy for a Tobacco-Free Germany 2040.

Implement measures to effectively safeguard political decisions from the influence of the tobacco industry and related organizations, as recommended in the Strategy for a Tobacco-Free Germany 2040 (Measure No. 9):

- “Reduce interactions between policymakers and manufacturers of tobacco and related products and their associations to what is strictly necessary for the legislative process;
 - Make transparent all interactions between policymakers and manufacturers of tobacco and related products and their associations: Publish planned meetings in advance and disclose minutes of discussions;
 - At every meeting dealing with tobacco or related products, remind participants of Article 5.3;
 - Government funding of non-governmental organisations to monitor interference attempts by manufacturers of tobacco and related products and their associations and to raise public awareness of this (watchdog role of civil society);
 - Develop a code of conduct for members of government, civil servants and members of the Federal Parliament and state parliaments (including rules on switching sides);
- Improve the lobby register (executive footprint, mandatory disclosure of funding, disclosure of specific lobbying issues/objectives);
 - Ban sponsorship and donations by manufacturers of tobacco and related products and their associations to public institutions and political parties;
 - Awareness-raising campaign by the Federal Ministry of Education and Research to denormalise donations/sponsorship of scientific institutions by manufacturers of tobacco and related products and their associations and to promote rules on transparency and conflict of interest;
 - Make the allocation of public funds to non-governmental organisations for health projects conditional on them not accepting donations/ sponsorship from manufacturers of tobacco and related products and their associations.”