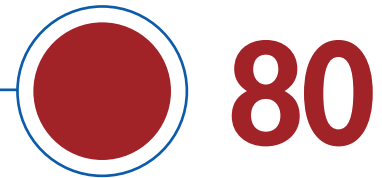


USA



Summary of Findings

I. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The tobacco industry (TI) continued to exert significant influence in state legislatures throughout the United States. Over the course of the year, tobacco companies, trade associations, and retail stores registered a staggering 927 lobbying registrations at the state level. This involved the employment of 856 lobbyists or lobbying firms, indicating a substantial investment by the TI.

On a broader scale the regulation of tobacco products in the U.S. falls under the jurisdiction of the U.S. Food and Drug Administration (FDA). However, the FDA's organizational framework includes representatives from the TI. The Tobacco Products Scientific Advisory Committee, within the FDA, advises the Commissioner of Food and Drugs on matters related to the public health implications and safety of tobacco products. This committee includes non-voting members representing the tobacco manufacturing industry, tobacco growers, and small businesses involved in tobacco manufacturing. The U.S. is currently not a Party to the WHO FCTC and is not bound by its obligations.

2. INDUSTRY CSR ACTIVITIES

Although direct endorsement or active support from government agencies is difficult to document, we did record a number of contributions from TI factions. A major U.S. tobacco company, Altria, provided charitable support to offices and organizations linked to elected officials. R.J. Reynolds funded a lunch event with a USD \$40,000 contribution at the National Black Caucus of

State Legislators in 2022. Philip Morris International (PMI) enhanced its public image through corporate social responsibility (CSR) initiatives related to public policy and governmental activities. In 2021, PMI donated USD \$750,000 to the Hartford Foundation for Public Giving to support their COVID-19 relief response program. In 2022, PMI continued its CSR efforts by donating USD \$500,000 to the Iraq and Afghanistan Veterans of America (IAVA) and USD \$250,000 to the Ukrainian Congress Committee of America Inc. to provide humanitarian assistance.

3. BENEFITS TO THE INDUSTRY

In 2021, the FDA began working on a public list to disclose tobacco products for which they had received applications. However, the FDA decided to defer enforcement of premarket requirements for up to one year for products that submitted timely applications.

Between 2021 and 2022, the FDA granted certain privileges and exemptions to the TI. These included allowing e-cigarettes to remain in the U.S. market, approving marketing for discontinued smokeless tobacco products, revisiting premarket tobacco applications due to challenges from companies against FDA denial orders, and relaxing standards for a subset of cigarette marketing applications submitted in 2019. Furthermore, reports have highlighted significant loopholes in the regulation of synthetic nicotine devices.



4. UNNECESSARY INTERACTION

The American Legislative Exchange Council (ALEC), an organization of state legislators, has served as a channel for promoting TI messaging and policy priorities. The TI has financially supported ALEC for years, with major companies providing cash contributions, covering legal expenses, and sponsoring events at ALEC meetings. ALEC's Private Enterprise Advisory Council includes representatives from Altria and the Oklahoma Council of Public Affairs, a recipient of Altria funds. ALEC's influence extends beyond state legislators, with several current governors, senators, and members of the U.S. House of Representatives having been affiliated with ALEC.

5. TRANSPARENCY

The FDA, as the main regulator of tobacco, has established disclosure rules, but the level of transparency in its interactions with the TI is inconsistent. While the FDA Scientific Advisory Committee follows a transparent process by disclosing meeting agendas and materials, other interactions with industry representatives are not as openly documented.

Several government agencies and legislation enforce disclosure requirements at the national level, such as the Alcohol and Tobacco Tax and Trade Bureau and the Family Smoking Prevention and Control Act. The U.S. Lobbying Disclosure Act of 1995 also mandates that all lobbyists, including those representing the TI, must register when operating at the national level. Similarly, all 50 states have some form of lobbyist registration to promote transparency in political activities.

6. CONFLICT OF INTEREST

The U.S. Federal Elections Commission does not explicitly ban contributions from the TI, but it restricts corporate donations. However, the TI finds ways to circumvent this restriction by using Political Action Committees (PACs) and other eligible groups to continue their financial support for political campaigns. This allows them to indirectly influence the political landscape and maintain a presence in the electoral process.

According to Open Secrets, the tobacco industry made substantial contributions during the 2021-2022 election cycle. Federal members of Congress received a total of USD \$1,414,785 in contributions, while members of the Senate received USD \$400,301. These figures include contributions from PACs and individual donors who contributed USD \$200 or more.

7. PREVENTIVE MEASURES

The government has implemented some preventive measures to regulate interactions with the TI, but there is a need for further improvements in transparency and accountability.

The level of transparency and public availability of records regarding the interaction between the government and the TI in the U.S. is inconsistent. While the FDA Tobacco Scientific Advisory Committee provides comprehensive information about their meetings, including agendas, minutes, and webcasts, other interactions with the FDA are not subject to public disclosure. Furthermore, there is no universally prescribed code of conduct for government officials when engaging with the tobacco industry.



Recommendations

1. Raise awareness on the WHO FCTC and its provisions regarding TI interference. Despite not being a party to the treaty, it is crucial to educate state and federal tobacco-control advocates about Article 5.3 of the WHO FCTC.
2. Strengthen and standardize revolving door prohibitions. While lobbying is constitutionally protected, implementing longer time frames between public officials or employees leaving public service and beginning lobbying can reduce interference from regulated industries.
3. Close loopholes in executive branch ethics guidelines. The current five-year restriction on former executive branch appointees working as lobbyists should be expanded to include a broader definition of "appointees," covering both full-time, non-career individuals and industry representatives.
4. Prevent conflicts of interest in the FDA drug approval process. To ensure unbiased decision-making, the FDA should rely on independent studies rather than industry-conducted research when approving new drugs, including tobacco products containing nicotine.
5. Adopt an official code of conduct for public officials. To uphold the public trust, a comprehensive code of conduct should be implemented for all public officials. This code should include strict rules against conflicts of interest and full transparency in all interactions with regulated industries- including the TI.
6. Educate lawmakers on industry interference. Advocates can play a crucial role in informing lawmakers about TI interference.
7. Mandate philanthropic donation disclosure. To enhance transparency, mandates should be implemented to disclose all philanthropic donations, ensuring that industry funding to political action funds is not concealed from the public.