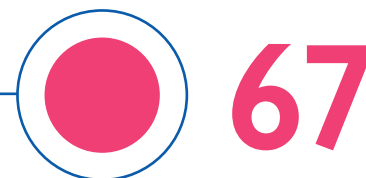


Guatemala



Summary of Findings

I. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

In 2018, proposed law 5461 “Ley de Control del Tabaco y sus Productos” (Law for Tobacco Control and its products) was presented to the Congress and assigned to the Health Commission. There is substantial evidence of the participation and endorsement of the tobacco industry (TI) when drafting the law. The proposed law has been in limbo, and no further discussions have been entered into since 2019.

The Fundación para el Desarrollo de Guatemala (FUNDESA in Spanish), a front group of Tabacalera Centroamericana (TACASA), has been invited by the congressional Health Commission to provide technical advice regarding public health matters. FUNDESA’s Health Commission helped to draft Decree 6-2022, which aimed to expand pediatric vaccination coverage across the country in 2022.

Guatemala has a narrative aligned to the industry. However, there is no evidence linking Guatemalan representatives to the TI at the most recent Conference of the Parties (COP) in 2021.

2. INDUSTRY CSR ACTIVITIES

TACASA co-sponsored the II Congress for Circular Economy and Biodiversity as part of their CSR activities on climate change. One of the congress’ main objectives was to share success stories, methodologies and tools related to green practices in the private sector.

In 2021, Phillip Morris’s HTP, IQOS, presented their new project to support climate change. The project encourages customers to recycle their used HEETS and reduce tobacco-related waste.

Since the first case of COVID-19, FUNDESA has made several donations to the government, including diagnostic tests, medical equipment, and supplies. Between April and September of 2021 FUNDESA designed and launched a public-private alliance for the opening of COVID-19 vaccination centres in shopping malls across the country.

3. BENEFITS TO THE INDUSTRY

We found no evidence that the government accommodates requests from the TI for any tobacco control law, besides what was included in the 2021 index.

In 2021 the TI, like other industries, were allowed by the central government to take more time to declare taxes. In 2022 the Superintendency of Tax Administration (SAT) declared that the Guatemalan State lost around 23 million quetzals (2.9 million USD) on cigarette income taxes presumably due to three reasons: real price does not match declared price, illegal cigarettes sales, and deficient control over commercial transactions of cigarettes by the SAT.

4. UNNECESSARY INTERACTION

Since the 2021 Tobacco Interference Index, no regulations that oversee the interactions between the TI and government have been implemented. It is still likely that these interactions are happening, and therefore need to be regulated.

1. There is evidence that TACASA co-sponsored the Congress for the Acceleration and Recovery for the Economy organized by the Ministry of Economy of Guatemala in September 2022.

2. The “Mesa de Competitividad” (Competitive Table) de Alta Verapaz (a northern State in Guatemala) which is a platform of FUNDESA, is a think tank partly funded by TACASA and aims to promote economic development in the northern

region of the country. The “Mesa” project was mentioned in the 2021 tobacco interference index report and is still active, working around infrastructure, education, and health care.

3. We found no evidence that the TI is assisting the government in any way. There is evidence that Phillip Morris is promoting Guatemala as a “smoke free environment”, but there is no evidence that the State or other tobacco control advocates are involved in this marketing strategy.

5. TRANSPARENCY

Guatemala does not currently have a law or code of conduct to facilitate disclosure on the relationship with the TI. There is a proposed law, 5461, that addresses transparency between TI and government - but it has not been discussed in Congress since August 2019.

6. CONFLICT OF INTEREST

No current government officials hold any positions with the TI.

Guatemala does not prohibit contributions from the TI to political parties or candidates. Proposed Law 5461 that addresses conflict of interest between TI and government has not been discussed in Congress since August 2019.

7. PREVENTIVE MEASURES

Currently, Guatemala does not have any mechanism to regulate the interaction between the government, its ministries, and the TI. Contributions from the industry to the government are also not banned. Proposed Law 5461 that includes a mechanism to regulate this interaction has not been discussed since August 2019.

Recommendations

1. The government should create a program to implement policies relating to FCTC Article 5.3 Guidelines.
2. Review, discuss, and approve, proposed law 5461, Law for tobacco control and its products, which regulates the interactions between the TI and government as well as other tobacco control activities to protect public health from the vested interests of the TI and ensure compliance to the FCTC.
3. Ensure the TI is not involved in drafting or editing law 5461 in Congress.
4. Establish a code of conduct (written and enforced) that addresses the standards by which public officials must comply when dealing with the TI.
5. Expose and ban TI CSR. Disclosure of their activities should be accessible and made available to the public.
6. Prohibit all types of contributions from the TI to political parties or candidates to public office (including local authorities).
7. Prohibit all types of assistance from the TI to any government agency, especially when drafting tobacco control laws or enforcement.
8. Regulate and include emerging products, such as e-cigarettes and HTPs, through updated tobacco control law
9. Prohibit all forms of tobacco advertisement, specially at the point of sale, including HTPs and e-cigarettes.
10. Increase tobacco taxation to at least 75% of the retail price as recommended by WHO FCTC.