

# Spain

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## Summary of Findings

### 1. Industry participation in policy development

The government of Spain does not actively allow the tobacco industry to sit in interagency meetings and advisory groups that set public health policies. However, the state-owned tobacco monopoly was liberalized in 1999. As a consequence, the State has kept some reminiscences. The most significant concern is that the tobacco industry is required by law to sit in the Consultation Committee of the Tobacco Market Commission (TMC) of the Spanish Ministry of Finance.

Although the TMC is not strictly speaking a public health body, some of its functions are discussing and reporting the sector's opinion on issues related to the agricultural and industrial tobacco economy, informing the government through the Commissioner. Besides, the TMC controls the advertisement and promotion of tobacco products. In this regard, we consider the presence of the industry in the Consultation Committee as a risk for public health.

### 2. Industry CSR activities

The World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) considers corporate social responsibility (CSR) as a form of tobacco advertising, promotion and sponsorship. In Spain, the law bans tobacco advertising, promotion and sponsorship. Compared to the previous reporting period, there are fewer instances of support to the industry's CSR from some levels of government. Most of the CSR activities were conducted without the participation of government officials. We have documented

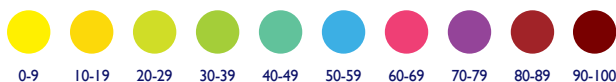
some collaboration at the national but not at the regional, provincial and municipal levels of government. Some other CSR activities are reported, though as they did not involve government participation, those are documented but are not considered for the scoring.

### 3. Benefits to the industry

The government has not given the tobacco industry any privileges, incentives, exemptions or benefits except in the Canary Islands. This region with 2.1 million inhabitants is subject to a special tax regime to stimulate their distant offshore economy in line with EU regulations. The special tax regime also affects tobacco products and is regulated by the regional government of the Canary Islands. As a result, tobacco product prices are lower in the Canary Islands than in the rest of Spain.

### 4. Unnecessary interaction

There were a few instances of unnecessary interaction between the government and the tobacco industry documented between January 2020 and March 2021. The main policy domain in which this happens is tobacco growing. In the report, we have documented a meeting between the Minister of Agriculture and the tobacco growers' organizations. At the regional level, a meeting of the president of the Region of Extremadura with the tobacco industry was also recorded. The government of this Spanish region signed in 2016 an agreement with Philip Morris on a few collaborations; the agreement is still in force. Moreover, many national and regional government officials attended news briefings sponsored, among other businesses, by Altadis. We did not find any evidence of continuing partnership of



law enforcement agencies and customs with the tobacco industry in combating smuggling and counterfeiting of tobacco products.

## 5. Transparency

The transparency of the interactions, when indispensable, between the government and tobacco companies, is limited. The government requires the registration of all economic operators, including importers, distributors, manufacturers and retailers of tobacco products, but not lobbyists. Also, the national government ministers make their daily agenda of meetings available online, but not other national government officials.

## 6. Conflict of interest

The law permits, with limitations, legal contributions to political parties, including candidates and campaigns, from private individuals but not private companies, businesses or foundations. The law, however, does not regulate contributions from corporations to foundations of political parties, provided that such contributions serve only the purposes of the foundations. Moreover, there have been striking cases of retired senior government officials working for the tobacco industry. Lastly, the economic interest of the State in the tobacco market through the Spanish Raw Tobacco Company (CETARSA) and the permeable TMC creates an apparent conflict of interest.

## 7. Preventive measures

The government has formulated, adopted and implemented a code of conduct for public officials, not specifically prescribing the standards they should comply with in their dealings with the tobacco industry. Also, such a code of conduct for public employees and political appointees is insufficient to deal with the range of the tobacco industry's typical interference activities. For example, public employees and political appointees may own up to 10% of companies of the tobacco industry, under some circumstances, and without a precise enforcement mechanism. Conflict of interest is loosely defined in the law as having a personal interest that may unduly influence the exercise of their functions and responsibilities, and it only applies to links held during the two years before the appointment.

No procedure has been found by which the national government should disclose the records of the interactions with the tobacco industry and its representatives. Regarding the periodic submission of the information by the tobacco industry, this includes tobacco production, manufacture, revenues and market share; however, it does not include the data on marketing expenditures, lobbying, philanthropy or political contributions. Also, no publicly available information has been found indicating that the national or regional governments are raising awareness within their departments on policies relating to FCTC Article 5.3 Guidelines.

## Recommendations

**Given the vested interest of the state-owned tobacco-growing company CETARSA and the porosity of the regulatory body of the tobacco market (TMC) to the influence of the tobacco industry, a firewall should be built around those bodies to safeguard the political and policy independence of the government on matters related to tobacco.**

It is urgent to establish criteria to limit interactions with the tobacco industry to the indispensable level and ensure the total transparency of the interactions that occur. At a minimum, the agenda, minutes and agreements reached during said meetings should be made public.

The regulation needs to be improved to define better and penalize conflicts of interest for government officials and employees, specifically with the tobacco industry. To this effect, it is indispensable to raise awareness about tobacco industry interference in the national and regional governments, particularly in departments usually involved in CSR activities of the industry, such as finance, development, health, environment and women's issues. Civil society should be involved in these efforts through the CNPT. Also, an act of political resolve should legally preclude the government from participating in any CSR effort of the tobacco industry and its allies.