

FRANCE

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Background and Introduction

Since the 70s France has adopted different tobacco control legislations. The country ratified the FCTC treaty in 2004. In 2008, France adopted the FCTC Article 5.3 Guidelines¹ which provides specific measures to protect public policies from tobacco industry interference. And in the last health legislation promulgated in 2016 several tobacco control provisions were included. Some of them particularly concern the protection of public policies from the interference of the tobacco industry. The tobacco industry and its allies challenged numerous provisions of the legislation but did not dare to challenge the ones concerning more transparency because of a bad image especially following the revelation to the public about their practices with some politicians and civil servants².

This report will assess how the government has responded to interference from the tobacco industry and what action the government has in place to protect itself. The questionnaire used in this report is developed by the Southeast Asia Tobacco Control Alliance based on the specific recommendations from Article 5.3 guidelines.³ This report will focus on instances of interference and government responses for the years 2019 and 2020. The lower the score, the better the compliance of Article 5.3 guidelines.

Overall the government has performed several efforts in implementing Article 5.3 guidelines but there are still measures to adopt and besides this a strong necessity to check and control the conformity of disclosures by the tobacco industry and to monitor about possible circumvents of the legislation. Beside this, even if the industry influence in policy development has not been directly identified during this period, we state still some situations which are in favour of the interest of the tobacco industry.

As this is the second report of its kind for France, the purpose is to evaluate if there has been some changes during that period and if yes which kinds of evolution we see. Overall, the score for France has improved slightly, from 34 to 27 points. However, there is still room for improvement and recommendations are made in areas that need to be strengthened.

¹ Framework Convention on Tobacco Control. Guidelines for implementation of FCTC Article 5.3, Geneva 2008, [decision FCTC/COP3(7)]

http://www.who.int/fctc/treaty_instruments/Guidelines_Article_5_3_English.pdf?ua=1

² <https://www.parismatch.com/Actu/Politique/L-emission-qui-a-secoue-les-politiques-518248>

<https://www.dailymotion.com/video/x3jfu4a>

³ Assunta, M. Dorotheo, E. U.. SEATCA Tobacco Industry Interference Index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3. April 2015

<http://tobaccocontrol.bmj.com/content/early/2015/04/23/tobaccocontrol-2014-051934>

Summary Findings

1. **INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT**

In 2019 and 2020 there was no general election and the majority at the Parliament has remained the same. At the level of the Government the health Minister, who was particularly involved in tobacco control, left her mandate in February 2020. The new health minister was above all involved in the Covid-19 crisis but he does not seem to challenge any previous provisions or the strategy adopted during the last years.

During the period 2019 and 2020 the influence from the tobacco industry and its main allied the National Federation for Tobacco retailers (Confédération des buralistes de France) was still blocked thanks to a political will at the level of the health minister, the Prime Minister and the French president. The Minister, in charge of budget and of the tobacco retailers who have a contract with this ministry, continues to have strong relationships with this organisation. The budget minister is also in charge of the key file of the tracking and tracing system to fight against the illicit trade of tobacco products. Despite the fact this protocol ratified by France belongs to the health FCTC treaty, the involvement of health department is limited and may be insufficient to prevent the interference of the tobacco industry.

2. **INDUSTRY CSR ACTIVITIES**

Since 2016 and the adoption of new tobacco control provisions, the previous advertising, promotion, sponsoring ban has been extended to philanthropies activities and therefore include all CSR activities. The legislation is very comprehensive and prohibits these activities carried out by the tobacco industry and also by third parties if they directly or indirectly may promote tobacco, tobacco products.

However, the background of the Covid-19 crisis may lead to a relapse without vigilance. Beside this, as mentioned in the previous report this provision does not concern tobacco retailers and their professional organisations which continue to develop CSR activities.

3. **BENEFITS TO THE INDUSTRY**

There are still some provisions which could be strengthened because they promote the consumption of tobacco products. The behavioural placements in cultural works remain a problem.

There are also still some incentives like a higher level of tobacco products quantity allowed to be brought in France from a country outside the European Union.

At the level of the European Union, the quantity allowed from one EU member to another one is also particularly high and considering the fact that UE and all the EU member states are parties to the FCTC treaty, this level should be reduced because it promotes cross border purchases and an oversupply by the tobacco industry which undermines health policies to reduce tobacco consumption via higher taxation. France tried in the past to limit this quantity at its own level and failed but the country should mobilise its partners and EU institutions for that issue.

The tobacco industry plays now a key part in e-cigarettes and some companies also sell some new tobacco products that recently appeared on the French market, like heat not burn tobacco products. These new products have a lower taxation in comparison with traditional cigarettes and the notion of harm reduction is used by the tobacco industry towards public authorities but also towards some health stake holders in order to weaken some current tobacco control provisions.

The French government also continues to greatly financially support the tobacco retailers despite the fact that their revenues have constantly increased for years. The government concluded a new contract which has been enforced during the period 2019-2020. This contract is supposed to help tobacco retailers to diversify their activities but in the past many financial supports were already granted to the profession for such a purpose. And other activities without health damages and other social costs are not supported like that. Besides this despite this strong support to tobacco retailers they continue not to respect some tobacco control provisions such as the ban to sale to minors tobacco products like a recent study carried out in April and May 2019 showed that.

4. UNNECESSARY INTERACTION

The main problematic relationship between the government and the tobacco lobby refer to their interaction with tobacco retailers and their representatives. Such situation is actually problematic because there are still links and financial relationships between the tobacco industry and the tobacco retailers / their representatives. The tobacco industry uses this organisation as a third party to protect and develop its interests. They particularly use them in their strategy to use harm reduction to change the legal framework.

Last, despite some progress at the Parliament and at the level of local authorities many stakeholders do not know the FCTC and particularly the FCTC guidelines on article 5.3 and in their activities they consider to a certain extent that they have to work with representatives from the tobacco industry like with other industries.

5. TRANSPARENCY

Different provisions were adopted in the last years in France in order to improve transparency generally in the public activities and public life. These provisions apply to public stakeholders and representatives of private interest. They concern therefore not only to the tobacco industry but they really contribute to improve transparency including the tobacco stakeholders. There are also specific provisions regarding the tobacco industry and particularly the expenditures spent for lobbying activities.

Standards and transparency concerning the framework of interaction when it is necessary between public stakeholders and the tobacco industry in a large definition (including the tobacco retailers and their representatives) are still insufficient about topics at the agenda, minutes etc.

6. CONFLICT OF INTEREST

The disclosure of possible conflict of interest and as a consequence the protection of public policies towards these interests is one of the measures adopted for a better transparency in public life and to improve it.

It particularly concerns possible conflict of interest with the tobacco lobby and many declarations are public.

Some public stakeholders are also concerned by a control after their public activities, but this kind of control does not apply to some key stakeholders such as former collaborators of ministers particularly targeted by the tobacco lobby.

7. PREVENTIVE MEASURES

The government requires the tobacco industry to periodically submit information on lobbying expenses and also on tobacco products, ingredients.

Concerning data about donations, philanthropy etc. such gifts are prohibited.

Some data about the tobacco industry activities could be useful to be collected and disseminated such as marketing expenses and studies.

The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives.

The government has not particularly formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. Their rules concern any possible interest but nothing is specific for the tobacco lobby.

Despite some progress and information disseminated by health ministry and the civil society acting in collaboration with this ministry, there is no systematic information disseminated to all the public stakeholders who may be in contact with the tobacco industry and its allies.

The FCTC treaty remains still little known by many stakeholders and particularly its provisions regarding the protection of public policies from the tobacco industry interests.

Recommendations

France has adopted some measures to comply with article 5.3 guidelines. There are however some actions that need to be strengthened:

- Systematic information on the FCTC treaty, its article 5.3 and associated guidelines.

This information should target all the public stakeholders (politicians, MPs, local authorities etc.) who may be in relationship with the tobacco industry and its allies.

- + Communication to the general public on website of the Minister and towards journalists to disseminate this topic and specific rules.

- The notion of conflict of interests: Define specific rules for the tobacco industry and financial vested interests with exclusion in presence of such interests.

But make a difference with non-profit organisation directly and indirectly independent from the tobacco industry, acting for public interest which are currently often rejected, because they are considered as promoting an interest.

This approach does not respect the spirit of article 5.3 and does not align with the WHO FCTC treaty to work with the civil society.

- Extend some provisions on transparency to third parties such as representatives of the tobacco retailers which have close relationships with the tobacco industry and with public authorities.

France: 2020 Tobacco Industry Interference Index

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ⁴ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ⁵ in setting or implementing public health policies in relation to tobacco control ⁶ (Rec 3.1)			2			
<p>France adopted different legislations in order to protect its general public policies from the interference of vested interests and particularly from the tobacco industry. They imposed above all rules for transparency.</p> <p>In 2019-2020 the tobacco control policy was defined and implemented without collaboration with the tobacco industry both at the national ⁷ and local level ⁸⁻⁹. The strategy and rules remained unchanged and clear, prohibiting contribution from the tobacco industry in setting or implementing public health policies in relation to tobacco control.</p> <p>However, the part played by the tobacco retailers remains important. They are presented as key stakeholders in their activities and the budget minister for example made a statement in which he mentioned that they “sell essential products”.</p> <p>Beside this at the local level there are relationships between tobacco retailers representatives, MPs, and Mayors for example in the framework of environment's issues such as the problem of butts¹⁰.</p>						
2. The government accepts, supports or endorses <u>policies or legislation drafted by or in collaboration with the tobacco industry.</u> (Rec 3.4)		1				
<p>The Budget Minister publicly declared the good relationships he has with the president of the national tobacco retailer’s organization. He also participated to their annual meeting and made a statement in support of their position asking to limit now tobacco taxation increases and not to continue the strategy to increase regularly tobacco taxation.¹¹ In 2019 and 2020 such a position had no impact on policies or legislation but the monitoring of the implementation of article 5.3 calls for vigilance now and in the coming years.</p>						
3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)	0					
<p>The tobacco industry and its allies are not represented in the committees in charge of tobacco control coordination.</p>						

⁴ The term “government” refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

⁵ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁶ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁷ https://solidarites-sante.gouv.fr/IMG/pdf/180702-pnlt_def.pdf

⁸ https://solidarites-sante.gouv.fr/IMG/pdf/aap_mobilisation_societe_civile_cdc_2019.pdf

⁹ Example per region <https://www.nouvelle-aquitaine.ars.sante.fr/apel-projets-regional-2019-fonds-de-lutte-contre-les-addictions-liees-aux-substances-psychoactives>

¹⁰ Losange Janvier 2020, n°410, p 18 – 19 Collecte des mégots, une mobilisation tripartite.

¹¹ <https://www.lemondedutabac.com/confederation-ce-qua-dit-gerald-darmanin-aux-buralistes/>

	0	1	2	3	4	5
And there are mandatory declarations of possible conflict of interest in the different agencies and public authorities see Article R1451-1 Order of the French Code of Public health ¹²						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ¹³ (Rec 4.9 & 8.3)		1				
No member of the French delegations was a representative from the tobacco industry ¹⁴ .						
INDICATOR 2: Industry CSR activities						
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2) B. The government (its agencies and officials) receives contributions ¹⁵ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)		1				
<p>The legal framework has remained the same since the last report: Since 1991 there is a comprehensive advertising ban in France however the text was strengthened in 2016 with clear provisions regarding a ban for philanthropy activities including CSR.</p> <p>The legislation says that any sponsorship or philanthropy action is prohibited when it is carried out by manufacturers, importers or distributors of tobacco products or when its purpose or effect is direct or indirect promotion in favor of tobacco, tobacco products and ingredients.</p> <p>The scope of the legislation is therefore very large: are prohibited not only CSR actions carried out by the tobacco industry, importers, distributors but also any CSR action carried out by a third which could promote directly or indirectly tobacco.</p> <p>The sanctions in case of violations are quite high and there is also a possibility for specialized NGO to launch actions in case of violations.</p> <p>A violation concerning this legislation was noted regarding the Cannes Lions meeting ¹⁶. And the tobacco industry also tries to use the current pandemic VOCId-19 to communicate. See for example¹⁷</p> <p>They are active in different fields, usually the same where the tobacco industry was involved in the past: see environment ¹⁸.</p>						

¹²

<https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006072665&idArticle=LEGIARTI000022053005&dateTexte=&categorieLien=cid>

¹³ Please annex a list since 2009 so that the respondent can quantify the frequency,

<http://www.who.int/fctc/cop/en/>

¹⁴ https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf

¹⁵ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

¹⁶ <https://www.pmi.com/our-initiatives/cannes-lion-2019>

¹⁷ <https://www.generationsanstabac.org/actualites/quand-philip-morris-profite-de-la-pandemie-du-covid-19/>

¹⁸ <https://www.generationsanstabac.org/actualites/sensibiliser-sur-le-megot-loperation-de-greenwashing-des-buralistes/>

	0	1	2	3	4	5
Especially with the COVID-19 pandemic there were several initiatives aiming at improving the image of the tobacco retailers ¹⁹ .						
And there is also still an indirect promotion of tobacco products and smoking through the existence of clubs for cigars founded by former students from famous universities training future leaders. These organisations are often financially supported by these universities and these Universities receive public financial supports. See for examples ^{20 21} .						
Beside this, as in the previous report, this monitoring would note again that the tobacco retailers and its federation are still involved in operation and communicate on such operations.						
INDICATOR 3: Benefits to the Tobacco Industry						
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)	0					
As mentioned in the previous report, the last legislation including many new provisions for tobacco control was discussed at the Parliament from March to December 2015 and published in January 2016 after validation by the Constitutional Council ²² .						
Besides this national legislation, there was also some European regulations which had to be transposed in the national law especially some provisions regarding the ban of attractive aromas and during the period of this report the prohibition of menthol in cigarettes and roll you own tobacco. Despite pressures from the tobacco industry which asked for further delay, the legislation was enforced on time.						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)			2			
All the privileges mentioned in the previous report are still effective.						
We still have incentives related to duty free. There are two levels: the first one refers to the European Market and France has to respect the European rules for this common market. However, it is important to highlight that the level of “personal and private consumption” is particularly high because when a French arrives in France from a European Union country he may come back with ²³ : 800 cigarettes + 400 small cigars + 200 other cigars + 1 kg raw tobacco to smoke European Union and all the Member States are parties to the FCTC and they should reduce this level.						

¹⁹ <http://www.lemondedutabac.com/coronavirus-solidarite-une-initiative-pour-donner-une-autre-image-des-buralistes-catherine-marcel/>

²⁰ https://www.sciences-po.asso.fr/gene/main.php?base=335&base2_gpe=C&id_details_groupe=11&base_gpe=868

²¹ <https://www.dauphine-alumni.org/group/club-cigare/13/calendar>

²² <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000031912641&categorieLien=id>

²³ https://europa.eu/youreurope/citizens/travel/carry/alcohol-tobacco-cash/index_fr.htm

When people come to France from a country outside the European Union, the level is more limited but remains higher than in other countries^{24 - 25}:

200 cigarettes

or 100 small cigars

or 50 other cigars

or 250 g raw tobacco to smoke

We also have in France a taxation which differs according to the products. New tobacco products such as heat not burn tobacco are much less taxed than traditional manufactured cigarettes and roll your own cigarettes²⁶.

Besides this, since 2004 and still nowadays, the French government has developed contracts with the professional organization of tobacco retailers. The purpose was initially to support them to diversify their activities but according to evaluations carried out by the Institution the *Cour des comptes*, it supported the tobacco activities to the detriment of tobacco control policies²⁷ and public money²⁸.

Moreover these different contracts include a clause for a possible new agreement at a date usually before elections where the tobacco retailers make pressure on policymakers and candidates²⁹.

The last contract adopted in 2018 is still effective. It was officially focused on the diversification of tobacco retailers regarding the objective of a non-smoking generation by 2032^{30 - 31}.

Lastly at the local level however because provisions of article 5.3 remain too often unknown, some vigilance remains essential to avoid the adoption of measures in support of the tobacco industry³².

INDICATOR 4: Forms of Unnecessary Interaction

8. Top level government officials (such as President/ Prime Minister or Minister ³³) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)		1				
--	--	---	--	--	--	--

Unlike for the previous report no meeting or event was identified associating representatives of the tobacco industry and public officials.

²⁴ <https://www.service-public.fr/particuliers/vosdroits/F804>

²⁵ https://europa.eu/youreurope/citizens/travel/carry/alcohol-tobacco-cash/index_fr.htm

²⁶ <https://www.douane.gouv.fr/fiche/la-fiscalite-appliquee-aux-tabacs-manufactures>

²⁷ https://www.ccomptes.fr/sites/default/files/EzPublish/rapport_evaluation_lutte_contre_tabagisme.pdf

²⁸ <https://www.ccomptes.fr/sites/default/files/EzPublish/08-lutte-contre-tabagisme-RPA2016-Tome-2.pdf>

²⁹ <https://www.lesechos.fr/2017/04/buraliste-la-profession-qui-murmure-a-loreille-des-politiques-164887>

³⁰ <http://www.douane.gouv.fr/articles/a14640-signature-du-protocole-d-accord-sur-la-transformation-du-reseau-des-buralistes>

³¹ <http://www.douane.gouv.fr/Portals/0/fichiers/actualites/2018-02/163-pa.pdf>

³² <https://www.generationsanstabac.org/actualites/200-000e-de-subvention-publique-a-lindustrie-du-tabac-financement-public/>

³³ Includes immediate members of the families of the high-level officials

	0	1	2	3	4	5
However there has been no change regarding the relationship between the tobacco retailers and many politician's stakeholder particularly at the local level ³⁴ or in the framework of the fight against illicit trade of tobacco product. Therefore we have regularly meetings gathering the budget minister in charge of customs with representatives of the tobacco retailers on that topic during which tobacco retailers are lobbying for other issues ³⁵ such as tobacco taxation. ^{36 37 38}						
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)		1				
No information was found about such situation in 2019 and in 2020 but some activities may be unknown.						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>		1				
<p>Comments mentioned in the previous report remain effective:</p> <ul style="list-style-type: none"> - Agreements were negotiated some years ago both at the European level and the national level between public authorities (OLAF for UE – Customs for France) and the tobacco industry. The agreements concern the fight against illicit trade of tobacco products. In 2016 France, as a member state, supported the position not to renegotiate the contract with Philip Morris. But other agreements are still going on with consequences for member states. Ex : France negotiated an agreement in 2012 with Imperial tobacco ³⁹ and should focus its involvement in the implementation of the ITP against illicit trade of tobacco products the country ratified in 2015. <p>Beside this the current European system for tracking and tracing which entered into force in May 2019 does not comply with the FCTC treaty because some missions are delegated to the tobacco industry. France should ask in the process of the revision of the current European Tobacco Product Directive to include this topic in the future revision so that the tracking and tracing system be directly and indirectly independent from the tobacco industry and ask again to stop definitely contracts with the tobacco industry in that topic.</p>						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)			2			
Provisions mentioned in the last report are currently the same:						

³⁴ <http://www.lemondedutabac.com/aveyron-cci-et-associations-des-maires-mobilisees-aux-cotes-des-buralistes/>

³⁵ <http://www.lemondedutabac.com/strasbourg-gerald-darmanin-a-la-rencontre-des-buralistes/>

³⁶ <http://www.lemondedutabac.com/gerald-darmanin-ce-que-nous-porterons-a-la-nouvelle-commission-europeenne/>

³⁷ <http://www.lemondedutabac.com/le-3eme-congres-des-buralistes-de-gerald-darmanin/>

³⁸ <http://www.lemondedutabac.com/prix-du-tabac-pas-de-hausse-qui-netait-pas-prevue-gerald-darmanin/>

³⁹ <http://douane.gouv.fr/Portals/0/fichiers/information/publication-douane/bilans-resultats/rap-2012.pdf>

	0	1	2	3	4	5
<ul style="list-style-type: none"> - We have to distinguish the executive and the legislative level. Concerning the Ministers there is a publication each week of their diary with information about meetings, including with the tobacco industry. But this information disappears with the new diary concerning the next week. At the local level we only have this information for key stakeholders. - At the level of the Parliament there is no obligation concerning this information. Some MPs have their own website on which they inform about their activities but it is not mandatory. <p>But if there are hearings organized in the framework of the elaboration of a legislative text, the information is included in the text or if there are a debate on a topic ⁴⁰.</p>						
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)		1				
<ul style="list-style-type: none"> - There are specific rules defined concerning the transparency of the tobacco industry activities in lobbying. According to the legislation published in January 2016 there is a special public disclosure of expenses related to influence or interest representation activities of manufacturers, importers and distributors of tobacco products and their representatives ⁴¹ - ⁴². <p>For the third year, manufacturers, importers and distributors of tobacco products, as well as businesses, professional organizations or associations representing them, reported to the Ministry of Solidarity and Health all expenditures related to activities influence or interest representation for the year 2017 ⁴³ ⁴⁴.</p> <ul style="list-style-type: none"> - Are considered expenses related to influence or interest representation activities: <ul style="list-style-type: none"> • Remunerations of personnel employed full time or partly to exercise influence or interest representation activities; • Purchase of services from consulting companies in influencing or interest representation activities; • Benefits in kind or in cash, worth more than € 10, provided to: <ul style="list-style-type: none"> . members of the Government; . members of ministerial offices or collaborators of the President of the Republic; 						

⁴⁰ <http://www2.assemblee-nationale.fr/15/commissions-permanentes/commission-des-affaires-sociales/secretariat/a-la-une/auditions-autour-du-theme-des-addictions-au-tabac-et-a-l-alcool>

⁴¹ See Code of public health
https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=B9643F66EA3B878671ABC3460037E715.tpdila13v_3?idArticle=LEGIARTI000032548837&cidTexte=LEGITEXT000006072665&dateTexte=20200101

⁴² Decree for enforcement :
https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=B9643F66EA3B878671ABC3460037E715.tpdila13v_3?cidTexte=LEGITEXT000006072665&idArticle=LEGIARTI000034135783&dateTexte=20170621&categorieLien=cid#LEGIARTI000034135783

⁴³ <https://solidarites-sante.gouv.fr/prevention-en-sante/addictions/article/transparence-des-relations-d-influence-de-l-industrie-du-tabac>

⁴⁴ <https://solidarites-sante.gouv.fr/prevention-en-sante/addictions/article/transparence-des-relations-d-influence-de-l-industrie-du-tabac-chiffres-2018>

	0	1	2	3	4	5
<ul style="list-style-type: none"> . collaborators of the President of the National Assembly or the President of the Senate; . parliamentarians; . persons entrusted with a public service mission which their mission or the nature of their function calls for taking or preparing the decisions and opinions of the public authorities relating to tobacco products; . experts, natural or legal persons, charged, by agreement with a public person, with an advisory mission on behalf of a public person whose mission is to take or prepare the decisions and opinions of the public authorities relating to the tobacco products. <p>These statements are available at the website of the health ministry and remain accessible for five years, as of their posting.</p> <p>Reporting companies and entities are responsible for the accuracy of the published content.</p> <p>In case of lack of report or misdisclosure sanctions are planned.</p> <p>In the past years the publication of such disclosures generated articles in the press. and also questions among citizens to their MPs - but in the last report there was no particular media coverage following the publication of these reports because no specific invitation nor gift were mentioned.</p>						

INDICATOR 6: Conflict of Interest

13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)		1				
<p>No change with the situation analysed in the last report</p> <ul style="list-style-type: none"> - Financial support for political parties as well as for political candidates or campaigns come from public money and from individual people but in this last case each people is allowed to give a limited amount of money (ex for a party at the highest 7 500 euros a year, for a candidate at the highest 4 600 euros and if the donation is more than 150 Euros, there are rules imposed for the payment). - Gift, donations from firms are prohibited as well as from foreign countries, trade unions, other NGO except the party of the candidate. - There are also strict rules for loans: prohibited from firms ... and limited to maximum 5 years from individual people ⁴⁵ - ⁴⁶ - ⁴⁷. 						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)			2			
Idem with item 13, no change with the previous report:						

⁴⁵ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000186650&categorieLien=id>

⁴⁶ <https://www.vie-publique.fr/actualite/dossier/moralisation/confiance-vie-politique-financement-partis-politiques.html>

⁴⁷ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000035567974&categorieLien=id>

	0	1	2	3	4	5
<ul style="list-style-type: none"> - The High Authority is also responsible for controlling the "pantouflage" of former ministers, former presidents of a local executive as well as former members of independent administrative or public authorities. The Authority checks if the professional reconversion is in the private sector at the end of their public functions or mandates. For a period of three years, anyone who has held one of these positions must submit a request to the High Authority to examine whether the new private activities that it plans to pursue are compatible with its former functions. Are concerned the liberal activities (for example the exercise of the profession of lawyer) or the private activities remunerated within a public or private enterprise (salaried activity, creation of a company, etc.) as well as those exerted within a public industrial and commercial establishment or within a public interest group of an industrial and commercial nature. - The High Authority checks whether the new activity is problematic at a penal or deontological level. When it identifies such difficulties, it may issue a notice of incompatibility, which prevents the person from carrying out the envisaged activity or a notice of compatibility with limits, in which it imposes precautionary measures. - This legislation only applies to some public authorities ⁴⁸. That is why we still have former public representatives who are involved directly or indirectly in the tobacco industry nowadays or former representatives of the tobacco industry who may still play a part in public institutions or public firms ⁴⁹. 						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)		1				
<p>No change with the previous report:</p> <ul style="list-style-type: none"> - Since the adoption of new legislations in 2013 ⁵⁰, in 2016 ⁵¹ and 2017 about the transparency of the public life ⁵² more rules for transparency are imposed to public authorities and to private stakeholders. - The law aims to create more transparency in the process of public decision making and in economic life. There is a data base collecting information on the relations between the representatives of interests and the public authorities. - These data are collected by an independent agency and publicly available. The High Authority manages a public register of lobbyists in order to provide information on key aspects of lobbying activities. Each stakeholder must declare, each year, the identity of the interest representative, the identity of individuals in charge of lobbying activities, the scope of lobbying activities, the lobbyist's membership in organisations, the identity of third parties on whose behalf lobbying activities are performed etc. 						

⁴⁸ See people involved by these obligations : <https://www.hatvp.fr/wordpress/wp-content/uploads/2019/04/Tableau-Obligations-declaratives-RP-avril-2019.pdf>

⁴⁹ <https://dirigeants.bfmtv.com/Jean-dominique-COMOLLI-4715995/>

⁵⁰ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000028056315>
<https://www.hatvp.fr/wordpress/wp-content/uploads/2018/01/Act-no.-2013-907-dated-11-October-2013-on-transparency-in-public-life.pdf>

<https://www.hatvp.fr/wordpress/wp-content/uploads/2018/01/Articles-LO-135-1-to-135-6.pdf>

⁵¹ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&categorieLien=id>

⁵² <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000035567974&categorieLien=id>

- The High Authority controls the integrity of the highest-ranking French public officials, who are required to disclose their assets and interests ⁵³.

The law establishes a list of public officials for whom a communication may constitute a lobbying activity. Until 30 June 2018, the list includes the following officials:

- members of the government;
- members of ministerial cabinets and staff of the President of the Republic;
- MPs and their staff (National Assembly and Senate);
- the President of the National Assembly, the President of the Senate and their cabinet members (National Assembly and Senate);
- officials of the departments of the National Assembly and the Senate, whose list is published on the website of each chamber;
- members of the board and sanctions committees of the independent administrative and public authorities mentioned in Article 11 of the Law of 11 October 2013;
- the directors-general and secretaries-general of the aforesaid authorities, as well as their deputies;
- people with decision-making positions in the government, for which they were appointed in the Council of Ministers. The list of such positions will be published and updated regularly on the website of the High Authority.

As of 1st July 2018, a number of local executive officials and other public officials, such as certain heads of unit and deputy directors in central administrations, have been also included in the list.

- The parliamentary mandate is nowadays incompatible with certain functions, whether public or private. In order to prevent the risk of conflicts of interest, the incompatibilities related to consulting activities are reinforced and extended. They concern the personal exercise of a consulting activity but also the management functions of a consulting company and the holding of control of such a company. Therefore, a member of Parliament may no longer:
 - start a counselling activity that was not his before the beginning of his term, including a regulated profession such as a lawyer;
 - pursue a consulting activity started less than a year before the beginning of his term;
 - provide consulting services to entities working primarily for public persons;
 - acquire or retain control of a consulting firm if it acquired it less than one year before the beginning of its mandate ⁵⁴.

INDICATOR 7: Preventive Measures

16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)			2			
---	--	--	---	--	--	--

Following information is available:

⁵³ <https://www.hatvp.fr>

⁵⁴ <https://www.vie-publique.fr/actualite/dossier/moralisation-vie-publique-lois-confiance-vie-politique/mesures-visitant-prevention-conflits-interets.html>
<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000035567974&categorieLien=id>

	0	1	2	3	4	5
<ul style="list-style-type: none"> - Information is published each week concerning the planning of ministers. This information is however limited: it only concerns the name of the firm, representatives and the date of the meeting. But no information is available about the agenda and the outcome of this meeting. - This information is available during a week until the publication for the new coming planning. - Besides this most of other public authorities do not have such obligations to inform the general public about meeting with representatives of the tobacco industry. <p>There is therefore a policy but is only partial.</p>						
17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2)			2			
<ul style="list-style-type: none"> - Except rules which apply to any civil servant and public officer with any administered no specific rules have been defined concerning their relation with representatives of the tobacco industry. - At the level of the health ministry if representatives from the tobacco industry ask for a meeting, for example in order to get information about a legislation, they are received as any other administered. And in 2019 and 2020 the relationship was limited to such dealing. The Health Minister also disseminates such standards to agencies which may have relationship with the tobacco industry such as the ANSES which collects data on ingredients from the tobacco makers. <p>There are rules which are enforced. The same rules mentioned in the previous report. However these rules are not specific for the tobacco industry despite the fact that thanks to the FCTC treaty and article 5.3 public authorities are more aware of their obligations.</p>						
18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)			1			
<ul style="list-style-type: none"> - The code of taxation imposes the tobacco industry to send the list of all of their references: for each kind of tobacco product, the brand, the commercial brand, the quantity, the present price and the price after promulgation. This list is the condition to get authorisation to sell the products in the French market. The purpose is to have a unique price in the whole country. The order was signed both by the Finance Minister and the Health Minister ⁵⁵. 						

⁵⁵ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000039223599&categorieLien=id>

It is therefore possible to know the price of any product sold on the French market and this information is in open data ⁵⁶.

- In France there is a monopoly on the sale of tobacco products by tobacco retailers. There is also the possibility for some restaurants or patrol station to sell a very limited amount of tobacco products if they have the authorisation ⁵⁷. Except for cross border purchase for private consumption or duty free, any other way to buy or sell tobacco products is prohibited, including on internet.

Each month on the basis of sales sold to tobacco retailers by distributors, the budget minister releases data about tobacco sales in the country. These data are publicized monthly for cigarettes, roll your on tobacco and other tobacco products on a public website ⁵⁸.

This public information is very useful because the tobacco industry regularly communicates fake news and thanks on consumption and sales and this official statistics can be opposed ⁵⁹.

- Concerning market shares, there are no publicly available data but the professional magazine called “the Revue des tabacs – au Coeur de la Ville” disseminates, each month, information about main brands reaching roughly 75% of the market.
- As far as marketing expenditures are concerned: there is a comprehensive advertising ban including at point of sale. However there is still the possibility to have advertising in the professional press and support and no information are available about these expenditures. Besides this tobacco retailers are supposed to be paid only on the basis of a percentage of the sale price. However the tobacco industry continues to give them incentives in order to promote the sale of their products.
- Concerning expenses and activities for the lobbying there is a special register devoted to collect these data, each year with an open access via a website.
- There is no communication about philanthropy activities because such activities are prohibited.
- Some information like political contributions are prohibited, not only for the tobacco industry and there are monitoring of the budget for parties and political campaigns because they receive public financial support ⁶⁰.

⁵⁶<https://www.douane.gouv.fr/la-douane/opendata/categories/tabacs-manufactures>

⁵⁷<https://www.douane.gouv.fr/demarche/devenir-revendeur-de-tabac>

⁵⁸<https://www.ofdt.fr/statistiques-et-infographie/tableau-de-bord-tabac/>

⁵⁹<http://www.lemondeditabac.com/marche-du-tabac-une-augmentation-de-237-directement-liee-a-la-fermeture-des-frontieres-seita/>

⁶⁰<http://www.cncfp.fr/>

	0	1	2	3	4	5
<p>- Other activities: the Tobacco Products Directive which has been transposed in France ⁶¹ imposes the tobacco industry to declare publish information on ingredients to a public agency, ANSES ⁶². This agency is collecting and analysing the information contained in these declarations. For these products, which are not subject to marketing authorisation, this expert appraisal mission aims to provide scientific and technical support to the competent authority. It is funded by fees paid by the organisations declaring the tobacco products and vaping products.</p>						
<p>19. The government has a program / system/ plan to consistently⁶³ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)</p>				3		
<p>- Despite information disseminated regularly by health ministry there is no specific program or plan aiming at systematically inform and raise awareness within its departments or towards other public authorities on policies relating to FCTC article 5.3 Guidelines.</p> <p>- The FCTC remains still unknown by too many public stakeholders including among some health authorities at the local level but we observe improvements thanks to the dissemination of the tobacco control activities and the implemented strategy that contribute to raise awareness on the obligation to protect public policies from the interference of the tobacco industry in other departments, and progressively the local level as well.</p>						
<p>20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)</p>			2			
<p>Like in the previous report, the situation is as follow:</p> <p>Civil servants and other Government officials may not solicit gifts in the performance of their duties. They may not accept gifts which are likely to:</p> <p>Influence the impartiality with which they are obliged to discharge their public service function or constitute a reward or compensation for services performed as part of their duties. If a civil servant and other Government official receives an inappropriate gift, they have a duty to inform a superior as soon as possible.</p> <p>Any offence committed by a civil servant and other Government official in the performance of or in connection with the performance of their duties will result in them facing a disciplinary sanction, without prejudice, where necessary, to any penalties imposed by the law.</p> <p>The tobacco control legislation includes a provision imposing the tobacco industry to publicly declare benefits in kind or in cash, worth more than € 10, provided to:</p> <ul style="list-style-type: none"> • members of the Government; • members of ministerial offices or collaborators of the President of the Republic; 						

⁶¹ <https://www.legifrance.gouv.fr/eli/ordonnance/2016/5/19/AFSP1610773R/jo/texte>
<https://www.legifrance.gouv.fr/eli/arrete/2016/8/22/AFSP1622636A/jo/texte>

⁶² <https://www.anses.fr/en/content/tobacco-and-related-products>

⁶³ For purposes of this question, “consistently” means: a. Each time the FCTC is discussed, 5.3 is explained. AND
b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.

- collaborators of the President of the National Assembly or the President of the Senate;
- parliamentarians;
- persons entrusted with a public service mission which their mission or the nature of their function calls for taking or preparing the decisions and opinions of the public authorities relating to tobacco products;
- experts, natural or legal persons, charged, by agreement with a public person, with an advisory mission on behalf of a public person whose mission is to take or prepare the decisions and opinions of the public authorities relating to the tobacco products.

These statements are available at the website of the health ministry.

However the tobacco retailers and their representatives continue to organise events and visits where they invite public authorities. As already mentioned even if the Budget Ministry may have relations with the tobacco retailers because of a special contract between the public authorities and this profession to be authorized to sell tobacco products, the relationship with any politicians and public authorities go much beyond this legal framework. And because the obligation for transparency does not apply to tobacco retailers and their representatives this remains a way to interfere in the public policies.

ANNEX A: SOURCES OF INFORMATION

I. TOBACCO INDUSTRY ACTIVITY

LOCAL TOBACCO COMPANIES

Top 5 Local Tobacco Company	Market Share and Brands	Source
Cigarettes		
Philip Morris, Jeanne Pollès https://www.pmi.com/markets/france/fr/	44,4%, Marlboro, Philip Morris, Chesterfield	Revue des Tabacs, n° 685, mai 2020
Imperial Brands SEITA, Dior Decupper https://www.seita.fr/	16,7%, News, Fortuna, Gauloises, JPS, Davidoff, Royale, Gitanes,	Revue des Tabacs, n° 685, mai 2020
JTI France, Didier Elena https://www.jti.com/europe/france	19,4%, Camel, Winston	Revue des Tabacs, n° 685, mai 2020
BAT France, Antal Békefi http://www.batfrance.com/	17%, Lucky Strike, Winfield, Peter Stuyvesant, Vogue, Dunhill	Revue des Tabacs, n° 685, mai 2020
Landewyck http://www.hvl.lu/fr/lentreprise/emplacements/landewyck-france/	< 0,5% Che	Revue des Tabacs, n° 685, mai 2020

Top 5 Local Tobacco Company	Market Share and Brands	Source
Roll your own tobacco		
JTI France, Didier Elena https://www.jti.com/europe/france	40%, Camel, fleur du pays, Winston	Revue des Tabacs, n° 685, mai 2020
Philip Morris, Jeanne Pollès https://www.pmi.com/markets/france/fr/	19,8%, Interval, Marlboro, Philip Morris	Revue des Tabacs, n° 685, mai 2020
JTI France, Didier Elena https://www.jti.com/europe/france	17,8%, News, Gauloises à rouler, JPS	Revue des Tabacs, n° 685, mai 2020
BAT France, Antal Békefi http://www.batfrance.com/	8,4%, Lucky Strike, Ajja 17	Revue des Tabacs, n° 685, mai 2020

Traditab, Jérôme Duffieux http://traditab.com/notre-aventure/	5% - 1637	Revue des Tabacs, n° 685, mai 2020
--	-----------	---------------------------------------

TOBACCO FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/Affiliate/ Individual)	Source
Confédération des Buralistes de France	Tobacco retailers organisation	http://www.buralistes.fr/ https://cnct.fr/la-strategie-de-la-confederation-des-buralistes/
Lemondedutabac.com	Website affiliated to the tobacco retailers organisation	http://www.lemondedutabac.com/
Unifab	Affiliate	https://www.unifab.com/
CNAC	Affiliate	http://www.blogpresidentcnac.fr/le-cnac/membres-du-cnac/
Nous sommes 13 millions	Website affiliated to the tobacco retailers organisation	https://www.nous-sommes-13-millions.com

a. News Sources

Top 5 Newspaper/Dailies*	Type (Print/Online)	Source : https://www.acpm.fr/L-ACPM/Missions-et-activites
Le Figaro	Print daily	http://www.lefigaro.fr/
Le Monde	Print daily	https://www.lemonde.fr/
Les Echos	Print daily	https://www.lesechos.fr/
Aujourd'hui en France – Le parisien	Print daily	http://www.aujourd'hui-en-france.fr/
La Croix	Print daily	https://www.la-croix.com/

*Basis of Ranking: x Circulation O Popularity O Others: _
Ranking Authority/ies: _____

b. Government Agencies (Refer also to Annex A)

Agency	Specify if more than one office is involved in this function:	General Sources of Information/ News for each office
1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty	Prime Minister : Edouard Philippe President : Emmanuel Macron	https://www.gouvernement.fr/ https://www.elysee.fr/
2. Cabinet and/or National Assembly (Policy makers)	President National Assembly : Richard Ferrand	http://www.assemblee-nationale.fr/ https://www.senat.fr

	President Senate : Gérard Larcher	
3. Agriculture / National Tobacco Board	Didier Guillaume	https://agriculture.gouv.fr
4. Customs	Gérald Darmanin	http://www.douane.gouv.fr/
5. Education	Jean Michel Blanquer	https://www.education.gouv.fr
6. Environment	Nicolas Hulot until August 2018 and then François de Rugy	https://www.ecologique-solidaire.gouv.fr
7. Finance/ Revenue/ Investments/ Excise	Bruno Le Maire	https://www.economie.gouv.fr/
8. Health	Agnès Buzyn	https://solidarites-sante.gouv.fr/
9. Labor	Muriel Pénicaud	https://travail-emploi.gouv.fr/ministere/la-ministre/
10. Trade and Industry/ Investments	See Bruno Le Maire in charge of Economy and Finance including trade / Industry	https://www.economie.gouv.fr/
Additional agencies/sectors to be named per country:		
11. Culture	Franck Riester	http://www.culture.gouv.fr/
12. Higher education, research & innovation	Frédérique Vidal	http://www.enseignementsup-recherche.gouv.fr/
13. Europe & Foreign office	Jean-Yves Le Drian	https://www.diplomatie.gouv.fr/fr/
14. Sports	Roxana Maracineanu	http://www.sports.gouv.fr/
15. Interior	Gérard Collomb until september 2018 and then Christophe Castaner	https://www.interieur.gouv.fr/

c. Meetings Attended/ Public Hearings

List the types of meetings and name of groups meeting (Working Group, Drafting group, National Assembly Public Hearing, National Tobacco Control Committee, etc.) and the contact person / source of the minutes:

Type of Meeting	Source
Commission for social matters including health at the National Assembly	http://www2.assemblee-nationale.fr/15/commissions-permanentes/commission-des-affaires-sociales/liens-commission-des-affaires-sociales/presentation Contact : President Brigitte Bourguignon brigitte.bourguignon@assemblee-nationale.fr Report : Olivier Véran olivier.veran@assemblee-nationale.fr

Commission for social matters including health at the Senate	http://www.senat.fr/commission/soc Contact : President Alain Milon a.milon@senat.fr Report : Jean-Marie Vanlerenberghe jm.vanlerenberghe@senat.fr
Comité de pilotage du programme national de réduction du tabagisme – Steering committee for National Tobacco Control Programm	https://solidarites-sante.gouv.fr/IMG/pdf/180702-pnlt_def.pdf Contact = DGS : Chief of the Health Department, Pr Jérôme Salomon
Comité de coordination du programme national de réduction du tabagisme / Committee for coordination for national Tobacco control programm	Idem

II. Laws, Policies, and issuances:

HEALTH LAWS:

1. Is there a health law database? If yes, please list which one will be used and cite the limitations:

Code for Public Health :
<file:///C:/Users/CNCT/Downloads/LEGITEXT000006072665.pdf>

See legislative part : Troisième partie : Lutte contre les maladies et dépendances Livre V : Lutte contre le tabagisme et lutte contre le dopage Titre Ier : Lutte contre le Tabagisme = from Article L3511-1 to Article L3512-28 + Articles 3515-1 to Article L3515-7
Regulatory Part : From Articles R 3511-1 to R 3515-8

-
2. Does the above sources include issuances? X Yes

ALL LAWS:

3. Is there a centralized (all) law database? If yes, please list which one will be used and cite the limitations:

Legifrance : <https://www.legifrance.gouv.fr/>

Id :
<https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006072665&dateTexte=20190409> see Code for Public Health

4. Does the above sources include issuances? x Yes