

Tobacco Industry

Interferences in Tobacco Control & Public Health Policies In Ghana

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Framework Convention on Tobacco Control (FCTC)

FCTC is the first international public health treaty negotiated under the auspices of the World Health Organization (WHO). FCTC entered into force in February 2005. ⁽¹⁾✓

Ghana ratified the FCTC on 29th November 2004. ⁽²⁾✓

Ghana domesticated the Framework Convention on Tobacco Control (FCTC) through the passage of the Public Health Act 851 in October 2012. ⁽³⁾✓



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Smoking Seriously Harm you
And Those Around You

General obligations:

Article 5.3 of Framework Convention on Tobacco Control (FCTC)

“ In setting and implementing their public health policies with respect to tobacco control, Parties (including Ghana) shall act to protect these policies from commercial and other vested interests of the tobacco industry ..” ⁽⁴⁾✓

Guidelines for the implementation of Article 5.3

Parties (including Ghana) are to “ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective. Parties (including Ghana) should implement measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control.

Key guiding principles to consider in dealing with the tobacco industry:

- ◆ There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.
- ◆ Because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses. ⁽⁵⁾✓

Public Health Act 851 of 2012

Tobacco Control Measures of the Public Health Act has firmly acknowledged that smoking of tobacco is a great cause of death and disability although it is preventable. The Committee on Health of Parliament of Ghana state that, among the benefits, the law will be seen in the control and management of diseases such as chronic obstructive pulmonary diseases. ⁽⁶⁾✓

The benefits of the law to the people of Ghana will be realized when the tobacco industry is not allowed to interfere and compromise ACT 851 implementation, enforcement, regulation and evaluation.

The development and adoption of further strong tobacco control regulations on the Third (3rd) Schedule of the Public Health Act (ACT 851) of 2012 in accordance with Section 76 of the ACT 851 on tobacco industry interference will ensure comprehensive and effective implementation, regulation, enforcement and evaluation of the Public Health Act. ⁽⁷⁾✓

Global challenges

During the FCTC treaty negotiations in 1999 to 2003, the tobacco industry's attempt to infiltrate the FCTC development was thwarted by member countries of World Health Organisations (WHO) based on scientific evidence and a fundamental conflict between public health and tobacco use.

WHO FCTC Conference of the Parties (COP) has closed its doors to the tobacco industry, its representative and allies from attending COP meetings. COP6 in Moscow, Russia was an example of a united global fight on tobacco industry interference. ⁽⁸⁾✓

It is evidence that, the tobacco industry is using the World Trade Organisation (WTO) and the courts to intimidate government against adoption and implementation of strong tobacco control legislations. ⁽⁹⁾✓ As a result of these intimidations and bullying by the tobacco industry, the Bloomberg and Gates launch legal fund to help countries fight big tobacco in 2015 ⁽¹⁰⁾✓

Africa challenges:

KENYA: During discussions on Kenya's Tobacco Control legislation, tobacco industry, spent 7 million in Kenya Shillings (about USD \$87,000) to take more than 40 Members of Parliament on a luxurious “workshop” to Mombasa to discuss and build support for amendments to weaken the Tobacco Products Control Bill. The MPs received handsome cash allowances in addition to having all their travel, accommodation and meals paid for. ⁽¹¹⁾✓

TANZANIA: In September 2012, leading up to discussions at COP5, the International Tobacco Growers' Association (ITGA), a tobacco industry funded farmer's front group, and its Tanzanian member organization, the Tanzania Tobacco Co-operative Apex Ltd, (TTCA) launched a public attack against the WHO and the FCTC. Using their large numbers as part of the Tanzania delegation to the 5th COP in November 2012, in violation of Article 5.3 of the FCTC, the members of the tobacco industry caused continued disruption and interference in proceedings at the meeting. ⁽¹²⁾✓



KENYA: During COP5 in November 2012, tobacco industry representatives wrote to Kenya's Permanent Secretary for the Ministry of Foreign Affairs claiming that the Kenya delegation at the meeting had over stepped its mandate and "deviated from the agreed Kenya position" on issues of tax and farming. The tobacco industry insisted that the Ministry of Foreign Affairs intervene and pressure the Kenyan delegation to stick to weaker, industry supported positions.

SOUTH AFRICA: In August 2012, British American Tobacco South Africa Limited (BAT) sued the Minister of Health and others claiming that the Tobacco Products Control Act was unconstitutional. BAT claimed that the Act, which prohibits the advertising or promotion of tobacco products, violated their freedom of expression by denying them the ability to communicate one-to-one with adult consumers and violating the right of consumers to receive information concerning tobacco products. BAT lost at the trial court.^{(13)✓}

Tobacco Industry In Bribery And Corruption

British American Tobacco (BAT) used bribery and corruption to influence politicians, parliamentarians, public health officials, and even staff of competitor tobacco corporations in Uganda, Rwanda, Burundi, Kenya, Comoros and other countries.

On 30 November 2015, the BBC aired an exposé on its Panorama programme that revealed that British American Tobacco (BAT) engaged in widespread and systematic bribery of public officials over multiple years to sabotage public health laws aimed at curbing tobacco consumption in Central and East Africa.

The BBC exposé and subsequent reports^{(14)✓} have provided evidence that BAT, often through contractors and typically with the use of aliases and unofficial email addresses, made numerous illegal payments of up to US\$20,000 to politicians, policymakers, and competitors' staff in Uganda, Rwanda, Burundi, Kenya, and Comoros.

Extensive documentation revealed by a former BAT employee turned whistleblower suggests that these payments were made in order to gain influence over policymaking, obtain drafts of and weaken tobacco control legislation, and undermine competition.

Incredibly, some of these illegal payments were even authorized and sanctioned by a regional BAT executive.

This evidence suggests that BAT's actions violate anti-corruption legislation in Kenya and Uganda, which deem bribery illegal. BAT could also be in violation of the UK's 2010 Bribery Act, under which it is illegal for employees of UK companies to engage in bribery abroad. Likewise, BAT could be held criminally liable in the U.S. under an anti-corruption law called the Foreign Corrupt Practices Act

This plot to undermine tobacco control laws is not only illegal, it demonstrates a clear disregard for countries' sovereign right to protect the health of their people. Given Africa's burgeoning youth population and rising income levels, the American Cancer Society predicts Africa will be the future epicenter of the tobacco epidemic, with smoking rates increasing more than seven-fold by 2100—unless meaningful policies are put in place.^{(15)✓}

Ghana's challenges

Customs Excise and Preventive Service (CEPS) in 2007 received number of motor bikes from the tobacco industry^{(16)✓} to counter tobacco smuggling while during that period, the tobacco industry has been accused of smuggling in the European region. The tobacco industry has been implicated in a number of tobacco smuggling.

During the Parliamentary Select Committee on Health public hearing on the Tobacco Control Measures of the Public Health Bill, the British American Tobacco, Target Link and their public relations allies including IMANI Ghana, disputed the impact of tobacco use and exposure to tobacco, thereby prioritizing profit over public health. IMANI Ghana continued the attack on tobacco control in the media which were countered by VALD and its allies.^{(17)✓}

These act of bribery and corruption by the Tobacco Industry is global and Ghana is not an exception: there are however unconfirmed reports of the tobacco industry engaging in bribery and corruption act in many African countries.

There are reports of the tobacco industry in Ghana providing educational, travel and campaign sponsorship to politicians, government officials and employees.



Lessons

Senegal: The law prohibits any interference by the tobacco industry in national health policies ⁽¹⁸⁾ ✓

Australia: The Australian Department of Health has put in place a reporting system of informing the public on its interactions with the tobacco industry. ⁽¹⁹⁾ ✓

Ghana: VALD and its civil society partners after a successful mapping of the tobacco industry launched its first Tobacco Industry Monitoring (TIM) report in 2014⁽²⁰⁾ ✓. The report aims at informing and educating the public on the activities of the tobacco industry in Ghana.

To be mindful of potential industry interferences in tobacco control policy development (Public Health Act and Tobacco Control Regulations) and track FCTC implementation in Ghana and development of a multi-sectorial programme (National Tobacco Control Strategic Plan), VALD in 2010⁽²¹⁾ ✓ and 2014 published the Ghana Civil Society Shadow Reports on the implementation of FCTC. ⁽²²⁾ ✓

Recommendations

- ♦ **Seriously concerned about the addictive and harmful nature of tobacco products, politicians, government officials and employees should avoid conflict of interest in tobacco control or public health policy formulation, implementation, enforcement and evaluation.**
- ♦ **Government officials, employees, Tobacco control/ Public Health policy makers, implementing, enforcement and regulatory agencies should limit interaction with the tobacco industry and be transparent on those interactions that occur.**
- ♦ **Nongovernmental organizations and other members of the civil society working on tobacco control and not affiliated with the tobacco industry should be supported and empowered to assess tobacco industry information and to monitor the activities of the tobacco industry.**

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