

Good Governance Means Curbing Commercial Determinants of Health in the Time of COVID-19

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The tobacco industry has a well-documented history of deception and of capitalizing on humanitarian crises, and it is using the COVID-19 pandemic to attempt to improve its deteriorating public image. The tobacco industry has had no qualms about taking advantage of the COVID-19 pandemic by providing assistance to governments while continuing to interfere with the implementation of the WHO FCTC. But even during times of great need, we must remember the irreconcilable conflict between the interests of the tobacco industry and those of public health.

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Much has been written about government action during the COVID-19 pandemic, but remarkably little on another aspect—where the responsibility for action lies fully within the arena of government responsibility—private sector activities influencing commercial determinants of health (CDHs) during the pandemic. These CDHs are not new; sectors of the public health community have been battling them for decades. The tobacco industry was the first industry in modern history to be recognised as interfering with public health policy. More recently, similar tactics have been used by other industries, such as the fast food, alcohol, and sweetened beverages industries. This interference occurs at the international level and involves the infiltration of several United Nations organisations. It also occurs at the national level and includes attempts to influence governments, politicians, and the media.

Big Tobacco, Big Food, Big Soda, Big Alcohol, Big Gambling, Big Formula, Big Coal, and Big Oil—all of these industries contribute to the global burden of non-communicable diseases (NCD). Yet, these industries immediately devised remarkably similar strategies to capitalise on the COVID-19 pandemic. The Non-Communicable Disease Alliance and SPECTRUM Research Consortium crowd-sourced, mapped,

1. Mary Assunta, 'Global Tobacco Industry Interference Index 2021', Global Center for Good Governance in Tobacco Control (GGTC), Bangkok, Thailand, November 2021, <https://exposetobacco.org/global-index/>.

analysed, and exposed industry COVID-19 practices from around the world that could ultimately increase NCD and worsen the severity of the pandemic.²

As early as September 2020, the initiative had already received 786 submissions from over 90 countries, with the most frequently cited countries being the United Kingdom and United States (each made 119 submissions), followed by Australia (56), India (43), Mexico (34), Brazil (29), and Jamaica (28). All of these examples involved governments, directly or indirectly. Numerically, alcohol and ultra-processed food and drinks products topped the list of reports (not necessarily indicating the order of seriousness), followed by tobacco, breast milk substitutes, fossil fuel and gambling.

The Non-Communicable Disease Alliance report, 'Signalling Virtue, Promoting Harm', raises concerns of 'corporate capture' of policy and public image during the pandemic, ironically by the very industries that are fuelling the burden of NCD worldwide and putting people at greater risk of severe COVID-19 outcomes. The report outlined four main strategies used by a multitude of industries—pandemic-tailored marketing campaigns and stunts, corporate social responsibility (CSR) programmes, shaping policy environments, and fostering partnerships with governments, international agencies and non-governmental organisations (NGOs).³ The top activity was marketing and adapting advertising to the context of COVID-19, followed by CSR initiatives and involvement with policy, even though the latter might be more difficult to uncover. The irony is that most of these industries make people more vulnerable to COVID-19, yet these industries are positioning themselves as saviours. They are highly resilient industries. The Chairman and Chief Executive Officer of Coca-Cola said in March 2020: 'We do know that over 134 years of a business we've seen many types of crisis, be they military, economic, or pandemic, and the Coca-Cola Company has always emerged stronger in the end.'⁴

Detailed examples from the tobacco industry are given in this chapter. Outside the tobacco control community, there is little awareness of the sheer magnitude of the global scale of the malfeasance of the tobacco industry to derail tobacco control and undermine public health. The reality is that no government today can expect to pass effective tobacco control legislation or increase tobacco taxes without interference and legal or trade challenges mounted by the tobacco industry. What is mentioned in this chapter is but a fraction of the array of strategies that the tobacco industry has continuously used to impair public health over the past several decades.

2. NCD Alliance, 'Explore a Snapshot and Share Examples of Unhealthy Commodity Industries' Responses to COVID', 9 June 2020, <https://ncdalliance.org/news-events/news/explore-a-snapshot-and-share-examples-of-unhealthy-commodity-industries-responses-to-COVID-19%C2%A0>.
3. Jeff Collin, Rob Ralston, Sarah Hill, and Lucinda Westerman, 'Signalling Virtue, Promoting Harm: Unhealthy Commodity Industries and COVID-19', 2020, NCD Alliance, SPECTRUM, https://ncdalliance.org/sites/default/files/resource_files/Signalling%20Virtue%2C%20Promoting%20Harm_Sept2020_FINALv.pdf.
4. Motley Fool Transcribers, 'Coca-Cola Co (KO) Q1 2020 Earnings Call Transcript', 21 April 2020, <https://www.fool.com/earnings/call-transcripts/2020/04/21/coca-cola-co-ko-q1-2020-earnings-call-transcript.aspx>.

The World Health Organization (WHO) Report of the Committee of Experts on Tobacco Industry published in July 2000 stated:

Evidence from tobacco industry documents reveals that tobacco companies have operated for many years with the deliberate purpose of subverting the efforts of World Health Organization to control tobacco use. The attempted subversion has been elaborate, well-financed, sophisticated and usually invisible.⁵

Australia faced three legal challenges when it pioneered the introduction of plain cigarette packaging—a constitutional challenge, a challenge via a bilateral investment treaty between Australia and Hong Kong, and a challenge through the World Trade Organization. Jane Halton, Australian Secretary of the Department of Health and Ageing, said in 2011:

It is fair to say that we are being targeted by what can only be described as subversive and disgraceful tactics by the tobacco industry, including using every available vehicle and opportunity to try and intimidate and/or threaten us to withdraw the legislation.⁶

In 2021, during the COVID-19 pandemic, Hong Kong banned e-cigarettes and heated tobacco products. It was not the first jurisdiction to do so, but the government and the legislators came under intense pressure. One veteran legislator said he had never seen such massive lobbying of legislators on *any* topic—health or otherwise—during his two decades as a legislator.

Tobacco industry strategies have included tobacco advertising, promotion and sponsorship (which undermine government public health messages); discrediting proven science and economic data; manoeuvring to oppose the political and legislative process; exaggerating the economic importance of the industry; manipulating public opinion to gain the appearance of respectability; fabricating support through front groups; and intimidating governments with litigation of the threat of litigation or trade threats. These condemnations may seem harsh or even extreme, but the examples come from the WHO, hardly a radical body.⁷

Tobacco industry products are responsible for eight million deaths a year globally. More than seven million of those deaths are the result of direct tobacco use while around 1.2 million are the result of non-smokers being exposed to second-hand smoke. Tobacco kills at least half of its users. Over 80 per cent of the world's 1.3 billion tobacco users live in low- and middle-income countries.⁸ While Big Tobacco makes its profits, it is governments or individuals who end up paying for the disease and death it causes.

5. Michael Eriksen, Judith Mackay, Neil Schluger, Farhad Islami Gomeshtapeh, and Jeffrey Drope, *The Tobacco Atlas*, 5th ed. (Atlanta, GA: American Cancer Society; and New York: World Lung Foundation, 2015). Available at <http://tobaccoatlas.org>.

6. Michael Eriksen, Judith Mackay, and Hana Ross, *The Tobacco Atlas*, 4th ed. (Atlanta, GA: American Cancer Society; New York: World Lung Foundation, 2012), Chapter 30. Also available at tobaccoatlas.org.

7. World Health Organization (WHO), World No Tobacco Day materials, 2012, https://www.euro.who.int/__data/assets/pdf_file/0005/165254/Tobacco-Industry-Interference-A-Global-Brief.pdf.

8. WHO, 'Tobacco: Key Facts', 24 May 2022, <https://www.who.int/news-room/fact-sheets/detail/tobacco>.

Tobacco is already responsible for health and productivity losses of around US\$1.4 trillion every year. Health economists agree that tobacco is bad for the health and wealth of nations. COVID-19 and tobacco both exacerbate poverty.

The tobacco industry is rich and powerful: the combined revenues of the world's tobacco companies are close to a trillion US dollars. The profit equivalent is equal to the combined profits of Coca-Cola, Walt Disney, General Mills, FedEx, AT&T, Google, McDonald's, and Starbucks. The industry hardly fears governments because of its extensive resources and global market power.⁹ For decades, the tobacco industry has attempted to intervene with public health policy, for example, by trying to prevent, delay or dilute the enactment of government tobacco control legislation and tax policy.

The actions of this predatory industry have long been incompatible with the WHO's first and only international convention—the Framework Convention on Tobacco Control (WHO FCTC), which came into force in February 2005. The WHO FCTC was, in its time, one of the fastest track United Nations conventions to be brought into force and ratified by the vast majority of countries in the world. By 2022, it had been ratified by 182 countries. Even during the drafting of the treaty 20 years earlier, it had been recognised that this treaty needed a unique article to rein in the tobacco industry. Article 5.3 of the WHO FCTC states:

In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

In 2008, the WHO issued extensive Guidelines for Article 5.3,¹⁰ emphasising that it applied to all branches of government—the executive, the legislature, and the judiciary.

Tobacco Industry in the Time of COVID-19

The tobacco industry is unique in that even six decades after its product was found to be harmful and with the associated deaths mounting each day, it has remained recalcitrant and not taken any responsibility. This industry cannot be rehabilitated. It is in the hands of governments to stop it.

—Mary Assunta, Global Center for Good Governance in Tobacco Control, 2022

Like many other background aspects of the COVID-19 epidemic, commercial interference in public health policy already existed. Governments should have anticipated that the industry would use its familiar tactics to exploit any epidemic and take immediate preventive action. Tobacco industry interference in public health is remarkably similar in countries around the world; it is the government response that varies. COVID-19 thus provides a litmus test in revealing responsible governance.

9. Eriksen et al., *The Tobacco Atlas*, 5th ed., Chapter 16, p. 48. Available at <http://tobaccoatlas.org/> Data from 2013.

10. WHO Framework Convention on Tobacco Control, Article 5.3, Guidelines, 2008.

This chapter illustrates how the industry adapted the same interference strategies in the COVID-19 epidemic, strategies that would be expected to have a detrimental effect on both the pandemic and the tobacco epidemics.

These practices are well-documented and are published by the global tobacco industry watchdog Stopping Tobacco Organizations and Products (STOP) in a yearly series of Tobacco Industry Interference Indexes. The 2020 and 2021 editions of the Index both published exhaustive lists of tobacco industry interference during COVID-19.¹¹ The 2021 Index covered 80 countries and ranked them under several broad categories.

The Index examines several key areas affecting governance, with myriad examples from around the world:

1. The tobacco industry interfered in policy development and implementation.
2. The tobacco industry's pandemic-related CSR activities enhanced access to senior officials.
3. The tobacco industry received incentives that benefitted its business.
4. Inappropriate interactions occurred between governments and the industry.
5. Transparency and accountability decreased.
6. Public officials faced conflicts of interest.
7. Lack of government implementation of solutions to protect themselves from industry interference.

The study also concluded that in general non-parties languished behind parties to the WHO FCTC.

The Dominican Republic and Switzerland together occupied the worst category in allowing tobacco industry interference, followed by Japan, Indonesia, and Georgia. The United States was 11th worst, and China was 13th worst out of the 80 countries; however, China's score improved between 2020 and 2021, while the United States' score deteriorated. Brunei headed the table in a category of its own as the best at resisting tobacco industry interference, followed by New Zealand, the United Kingdom, France, Uganda, the Netherlands, Mongolia, Iran, and Kenya. As clearly shown in the indexes, the tobacco industry has exploited the pandemic to engage with governments to an extraordinary level, with government receipt and endorsement of charitable contributions (CSR activities) being the industry's key avenue to access senior officials, including several instances of the industry involving the prime minister's offices in various countries. The industry capitalised on the vulnerability of governments that faced a shortage of resources during the pandemic. Even in countries where health departments and ministries have a policy of not accepting donations from the tobacco industry, this was put aside during the pandemic.¹²

11. Mary Assunta, 'Global Tobacco Industry Interference Index 2019', GGTC, Bangkok, Thailand, November 2020, https://exposetobacco.org/wp-content/uploads/GlobalTIIIndex2020_Report.pdf, appendix A, p. 41.

12. *Ibid.*

The industry has engaged in the following activities during COVID-19:

1. *Confusing the science*¹³

Scientists with financial links to the tobacco industry published research related to COVID-19 without declaring their tobacco industry links. The research suggested that nicotine offers protection from COVID-19 infection. This hypothesis was published primarily on pre-print publishing platforms without peer review, such as Qeios, indicating that smokers were less likely to catch COVID-19.¹⁴

The Foundation for a Smoke-Free World, funded by Philip Morris International, published blogs and surveys on its website, including blogs that stated: ‘there is currently no evidence that smokers who are diagnosed with COVID-19 are more likely to be hospitalized than non-smokers’, and another that stated that ‘more research needed’ to be done before the public was warned about the potential risk factors tobacco products posed for COVID-19.¹⁵

In the United States, Bidi Vapor claimed on Instagram that ‘A bidi stick a day keeps the pulmonologist away.’¹⁶

According to STOP, the studies have prompted a wide range of potentially misleading media reports with headlines, such as ‘Smokers four times less likely to contract COVID-19’, ‘Smoking may lower coronavirus risk’, ‘Does nicotine help against the new coronavirus?’, suggesting that smoking, and by implication nicotine, might reduce the risk of COVID-19. They led to some potentially dangerous misinterpretations. In France, the government issued a statement warning of misinterpretation, followed by an order limiting the sale of nicotine products to prevent panic buying and misuse. According to the Iranian Anti-Tobacco Association, the stories went viral in Iran, a country with high death tolls from COVID-19. The organisation reported that people were taking up smoking for the first time to protect themselves from COVID-19.¹⁷

The reality is that all forms of tobacco use are linked to COVID-19.¹⁸ Smokers who develop symptomatic COVID-19 have almost three times the risk of dying than non-smokers.¹⁹ People who vape and use waterpipes are at increased risk of contracting

13. Tobacco Tactics, ‘COVID-19’, accessed 13 September 2022, <https://tobaccotactics.org/wiki/COVID-19/#database>; STOP, ‘Studies that Suggest Smoking and Nicotine Protect Against COVID-19 Are Flawed’, New York, 28 April 2020 (and Iran), <https://exposetobacco.org/news/flawed-COVID19-studies>.

14. Tobacco Tactics, ‘COVID-19’.

15. *Ibid.*, <https://tobaccotactics.org/wiki/COVID-19/#ttref-note-11>, and <https://tobaccotactics.org/wiki/COVID-19/#database>.

16. Campaign for Tobacco-Free Kids (CTFK), ‘Big Tobacco Is Exploiting COVID-19 to Market Its Harmful Products’, 2020, https://www.tobaccofreekids.org/media/2020/2020_05_COVID-marketing.

17. STOP, ‘Studies that Suggest’.

18. WHO, ‘How to Protect Yourself’, accessed 13 September 2022, <https://www.who.int/southeastasia/outbreaks-and-emergencies/COVID-19/What-can-we-do-to-keep-safe/protective-measures/no-tobacco>; Matthew L. Myers, ‘Contrary to Recent Headlines, Evidence Indicates Smokers Are at Greater Risk, Not Protected, from COVID-19’, Statement of Matthew L. Myers, President, Campaign for Tobacco-Free Kids, 24 April 2020, [tobaccofreekids.org/press-releases/2020_04_24_tobacco-risk-COVID-19](https://www.tobaccofreekids.org/press-releases/2020_04_24_tobacco-risk-COVID-19).

19. R. Peto, personal communication, January 2021, citing Million Women Study.

COVID-19 too. According to a Stanford University study, vapers have a five to seven times higher risk of contracting COVID-19.²⁰ Studies that suggest smoking and nicotine protect against COVID-19 are flawed.²¹

2. Attempting to shift its image to that of a trusted health partner

The tobacco industry has attempted to shift its image from vilified to trusted health partner, using COVID-19 to make and maximise contact with policy-makers and health professionals.²² The industry has exploited the pandemic with a multi-pronged tactic to entice, persuade and coerce governments to adopt weaker public health policies. Many governments made vulnerable by the pandemic freely accepted and endorsed charity from the industry. Such donations often came with strings attached and compromising policies. Instead of removing benefits to the industry, many governments made decisions that benefitted the industry, particularly in lowering or not imposing taxes and delaying legislation or its implementation.²³

The industry is providing resources to countries badly in need of them, framing itself as being ‘part of the solution’—a classic tactic of the tobacco industry to get close to governments and enable it to interfere with, derail and undermine health policies. In reality, the industry is ‘part of the problem’ not ‘part of the solution.’ While governments have obligations under the WHO FCTC and also have the power to tighten regulations on the industry, unfortunately, the opposite seems to have happened during COVID-19. In many countries, governments have protected and even promoted the industry.²⁴ Although governments identified tobacco industry interference as a main obstacle to their efforts to implement tobacco control measures, many became vulnerable to the industry’s tactics.²⁵ Many government officials even met with tobacco industry executives in a non-transparent manner and were persuaded to allow their business to function as ‘essential’ during the pandemic lockdowns.²⁶

3. Promoting and selling more tobacco

Even in a pandemic, where all modes of tobacco use are a risk factor, the industry continued to produce and market its harmful products, often using social media influencers.²⁷ The industry also offered new and trendy tobacco products for approval and claimed

20. Erin Digitale, ‘Vaping Linked to COVID-19 Risk in Teens and Young Adults’, *Stanford Medicine*, 11 August 2020, <https://med.stanford.edu/news/all-news/2020/08/vaping-linked-to-covid-19-risk-in-teens-and-young-adults.html>.

21. STOP, ‘Studies that Suggest’.

22. CTFK, ‘Big Tobacco’.

23. Assunta, ‘Global Tobacco Industry Interference Index 2019’.

24. *Ibid.*

25. *Ibid.*

26. *Ibid.*

27. CTFK, ‘Big Tobacco’.

they were moving away from cigarettes. In reality, they were selling more cigarettes and simultaneously obstructing government regulatory efforts that would affect cigarette sales.²⁸ For example, British American Tobacco aggressively promoted its heated cigarette Glo in several countries with special discounts, contest prizes, and even offering branded face masks and hand sanitisers with purchase.²⁹

4. Using CSR programmes

During the COVID-19 pandemic, the tobacco industry moved swiftly to step up its CSR activities, such as making donations to higher-risk communities, handing out personal protective equipment (PPE) to the health sector, and supplying medical equipment to hospitals.³⁰

COVID-19-related tobacco industry CSR has been documented in dozens of countries, especially where the industry has subsidiaries and sells its products.³¹ For example, the industry used COVID-19 opportunities for brand marketing, such as free masks bearing industry logos; and offering ventilators, gels, PPE and even cash, amid a flurry of publicity.³² In Kazakhstan, British American Tobacco provided Glo-branded masks to more than a dozen Instagram influencers who posted photos wearing the masks, with captions advertising free Glo masks with the purchase of a Glo device.³³ The Korean tobacco company, KT&G, donated oxygen generators to Indonesia and Russia. The KT&G website stated: 'We fulfilled our corporate social responsibilities by providing COVID-19 diagnostic kits to Indonesia, Russia, and Turkey *where our overseas subsidiaries are located*.'³⁴ VPZ, the largest vape retailer in the United Kingdom, offered £100,000 in coupons for a free vaping device as a 'thank you' to National Health Service frontline staff.³⁵ Philip Morris International reported it donated over US\$32 million across 62 markets in the first few months of the pandemic. In the countries surveyed, its CSR activities included the distribution of ventilators to the Czech Republic and hand sanitisers to Brazil, Indonesia, the Netherlands, and the Philippines. In India, ITC Limited (formerly known as the India Tobacco Company) partnered with the Government of Kerala, through its brand, Savlon, on a state-wide handwashing campaign called 'Break the Chain'.

28. Assunta, 'Global Tobacco Industry Interference Index 2019'.

29. CTFK, 'Big Tobacco'.

30. Assunta, 'Global Tobacco Industry Interference Index 2019'.

31. Tobacco Unmasked South Asia, 'Globally Reported Tobacco Industry Interference during COVID-19 Pandemic', accessed 13 September 2022, https://www.tobaccounmaskedsouth.asia/Globally_Reported_Tobacco_Industry_Interference_during_COVID-19_Pandemic.

32. CTFK, 'Big Tobacco'.

33. Ibid.

34. KT&G, 'KT&G to Deliver Medical Oxygen Generators to Russia . . . Support for Overcoming COVID-1', 9 November 2021, <https://en.ktng.com/ktngNewsView?cmsCd=CM0048&ntNo=483&num=450&src=&srcTemp=&currPg=1>.

35. Alan Selby, 'Vape Firm Says Thank You to Frontline NHS Staff with Vouchers for E-cigs', *The Mirror*, 11 August 2020, <https://www.mirror.co.uk/news/uk-news/vape-firm-says-thank-you-22504039>.

5. *Interfering with governments' COVID-19 responses*

While publicising its charitable acts to resuscitate its image as being part of the solution, the tobacco industry was simultaneously lobbying governments not to impose restrictions on its business and even to declare tobacco as an 'essential' item during the pandemic.

In South Africa, for example, the tobacco industry challenged the government after it banned cigarette sales during lockdown. In Kenya, the government listed tobacco products as 'essential products' under the foods and beverages category during the COVID-19 pandemic, which meant logistics providers of those sectors were given protection and special permits to transport during the lockdown. In Jordan, three days into the complete lockdown, the government instructed city buses to deliver bread and other essentials directly to neighbourhoods, and the Minister of Labour announced the government would initiate the distribution of cigarettes to smokers as well. Jordan documented a more than 50 per cent increase in consumption of tobacco during the lockdown.³⁶

6. *Interfering more broadly with tobacco control policy*

The industry used COVID-19 as an opportunity to block, amend, and delay broader tobacco control measures while governments were distracted.³⁷ In many countries that received charity from the industry, the report found the tobacco industry received tax benefits in the form of reduced taxes, no tax increases, or tax exemptions.³⁸ Her Royal Highness Princess Dina Mired of Jordan said tobacco companies 'preyed on governments during the pandemic'.³⁹

7. *Producing COVID-19 vaccines*

Several tobacco companies are in the business of producing COVID-19 vaccines. These include the Philip Morris subsidiary Medicago's vaccines in Canada,⁴⁰ British American

36. Assunta, 'Global Tobacco Industry Interference Index 2019'.

37. Patricio V. Marquez, 'Tobacco Use and Coronavirus (COVID-19): A Deadly but Preventable Association', World Bank Blogs, 27 May 2020, <https://blogs.worldbank.org/voices/tobacco-use-and-coronavirus-covid-19-deadly-preventable-association>; *Tobacco Reporter*, 'Sampoerna Suspends Operations After Covid Deaths', 1 May 2020, <https://tobaccoreporter.com/2020/05/01/sampoerna-suspends-factory-operations-after-coronavirus-deaths>.

38. Jenny Lei Ravelo, 'Tobacco Industry "Preyed On" Governments During COVID-19 — Report', *Devex*, 4 November 2021, <https://www.devex.com/news/tobacco-industry-preyed-on-governments-during-covid-19-report-101973>.

39. *Ibid.*

40. Philip Morris International, 'PMI Announces Medicago to Supply up to 76 Million Doses of Its Plant-Derived COVID-19 Vaccine Candidate', accessed October 2020, <https://www.marketscreener.com/quote/stock/PHILIP-MORRIS-INTERNATIONAL-2836703/news/Philip-Morris-International-PMI-Announces-Medicago-to-Supply-Up-to-76-Million-Doses-of-Its-Plant-D-31601227>.

Tobacco's biotech subsidiary Kentucky BioProcessing's vaccine,⁴¹ and others. This was hailed by the industry with headlines such as 'Tobacco to the rescue' on the cover of the industry's own journal, with the subtitles 'The industry's remarkable efforts to develop a COVID-19 vaccine', 'The unlikely savior', and posing questions such as 'Does nicotine protect against the coronavirus?'

These vaccines are enabling the industry to gain enormous favourable publicity,⁴² and eventually access to the WHO and governments, in direct conflict with WHO FCTC Article 5.3. The big concern is that these tobacco industry vaccines become part of the COVID-19 Vaccines Global Access (COVAX) distribution programme. The Philip Morris-Medicago vaccine is partly funded by the Canadian government, and Canada has offered the vaccine to COVAX, which is co-led by the Coalition for Epidemic Preparedness Innovations (CEPI), Vaccine Alliance (GAVI) and the WHO, alongside the key delivery partner United Nations International Children's Emergency Fund (UNICEF). COVAX aims to accelerate the development and manufacture of COVID-19 vaccines, and to guarantee fair and equitable access for every country in the world. The Canadian tobacco industry vaccine could lead to the unimaginable situation of GAVI, the WHO, CEPI, and UNICEF sitting in the same room and discussing public health with the tobacco industry. At a minimum, the distribution of all vaccines through COVAX should comply with both the WHO Framework of Engagement with Non-State Actors (FENSA)⁴³ and WHO FCTC Article 5.3 mentioned earlier: 'In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.'⁴⁴

There needs to be a firewall between the tobacco industry and COVAX, national governments, and the end recipients. All four of the founding partners of COVAX are committed to reducing the tobacco epidemic and protecting public health. Donors to COVAX include many of the 182 countries and regions that are parties to the WHO FCTC, as well as several foundations that have strong anti-tobacco policies, including the Bill and Melinda Gates Foundation. However, in March 2022, the WHO announced that it refused to approve Medicago's COVID-19 vaccine because of the pharmaceutical company's ties to the tobacco industry. At the time of writing, it has also not been approved by national regulators for distribution in the UK, EU or the US. The issue is not yet completely resolved, as the Canadian government and Medicago might attempt to sell or distribute directly to countries.

41. Patricia Nilsson and Clive Cookson, 'BAT Joins Race to Develop COVID-19 Vaccine', *Financial Times*, 1 April 2020, [ft.com/content/e3737752-6147-4c0e-82f2-e7df9eb9f6f8](https://www.ft.com/content/e3737752-6147-4c0e-82f2-e7df9eb9f6f8).

42. 'How a Use for Tobacco Helps Accelerate COVID-19 Vaccine', *Ejnsight*, 28 October 2020, <https://www.ejnsight.com/eji/article/id/2617626/20201028-How-a-use-for-tobacco-helps-accelerate-COVID-19-accine>.

43. WHO, 'Guide for Staff on Engagement with Non-State Actors', Framework of Engagement with Non-State Actors (FENSA), accessed 13 September 2022, https://www.who.int/docs/default-source/documents/fensa/fensa-guide-for-staff.pdf?sfvrsn=46b61881_2.

44. WHO Framework Convention on Tobacco Control, Article 5.3.

Actions to Minimise the Influence of the Tobacco and Other Industries during the Pandemic

1. World Health Organization

WHO Economic and Commercial Determinants of Health Programme

So concerned had the WHO become about the tactics of the unhealthy commodity industries, that in 2021 it introduced a new programme called the ‘Economic and Commercial Determinants of Health.’ The programme has four goals: to strengthen the evidence base; develop tools and the capacity to address commercial determinants; convene partnerships and dialogue; and raise awareness and advocacy. For example, this programme runs a series of webinars and discussions on CDH.

WHO defines CDH as private sector activities that affect people’s health positively or negatively.⁴⁵ Although there are positive contributions to well-being by ‘healthy’ industries ranging from manufacturers of bicycles and other sports equipment to makers of motorcycle helmets or seat belts, most attention is on the unhealthy commodity industries: tobacco, ultra-processed foods, sugar-sweetened beverages, and alcohol, which lead to NCD such as high blood pressure, Type 2 diabetes, certain cancers, cardiovascular disease, and obesity.

The WHO is rightly concerned at how private enterprise now plays an increasing role in public health policy and regulations, and the COVID epidemic is a recent example of this. The tobacco industry and other corporations influence public health through political lobbying and funding, including donations to political parties, and by courting the media. More subtly, corporations influence the science through funding medical education and research, where data may be skewed in favour of commercial interests. They further shape preferences through corporate front groups, consumer groups and think tanks, and CSR programmes, allowing them to manufacture doubt and promote their own industry framings.

WHO Framework Convention on Tobacco Control

In the case of tobacco, it is shown that governments that followed the WHO FCTC Article 5.3 and its Guidelines are better able to safeguard their tobacco control efforts during the pandemic, while governments that did not follow Article 5.3 found their efforts being undermined, delayed, or defeated by the industry.⁴⁶ Government-wide implementation of Article 5.3 of the convention is one powerful means of protecting tobacco control policies from the influence of private industries.

45. WHO, ‘Commercial Determinants of Health’, 5 November 2021, <https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health>.

46. Assunta, ‘Global Tobacco Industry Interference Index 2019’.

2. Government action

During the COVID-19 pandemic, several governments took action to protect public health. India and South Africa banned the sale of tobacco products during the pandemic, while in the Philippines, three municipalities banned the sale of cigarettes, Mexico prohibited the sale of e-cigarettes, and the United States listed vape, smoking and cigar shops as non-essential businesses that must close. Hong Kong banned new tobacco products.

To protect public health policy against tobacco and other harmful industries, especially during COVID-19, STOP advises that:

1. **The whole of government, not just the health sector, must curb interference in public health policy by the tobacco and other negative industries.** For example, a whole-of-government approach to implementing WHO FCTC Article 5.3 was done in Botswana, the Philippines, and the United Kingdom.
2. **Endorsement of tobacco industry activities must stop.** Governments must limit interactions with tobacco and other harmful industries to only when strictly necessary for regulation.
3. **Denormalise so-called socially responsible activities.** Governments must reject harmful industries' CSR activities as these are a form of promotion and compromise the integrity of government officials to regulate the products.
4. **Reject non-binding agreements with the tobacco industry.** There should be no collaboration between governments and the industry.
5. **Stop giving incentives to the tobacco industry.** The tobacco industry should not be granted incentives or any preferential treatment to run its business as incentives directly conflict with tobacco control policy.
6. **Governments must divest from the tobacco industry.** Governments should financially divest from the tobacco business to obtain independence from it and prioritise public health. State-owned tobacco enterprises should be treated like any other tobacco company.
7. **Require greater transparency for increased accountability.** Transparency when dealing with unhealthy industries will reduce interference. All interactions must be recorded and made publicly available.
8. **Implement a code to provide a firewall.** Governments should adopt a code of conduct with clear guidance on interactions with the tobacco industry. For example, the Philippines government has introduced a civil service Code of Conduct when dealing with the industry, but few countries have followed suit.
9. **Compel the tobacco industry to provide information about its business.** The tobacco industry should be compelled to disclose its expenditure on marketing, lobbying and philanthropic activities.

All of these recommendations apply equally to other unhealthy commodity industries. Tobacco control will never be successful unless the vectors—such as the tobacco industry—are exposed and curtailed. While NGOs and academia can research and expose the industry, it is the governments which are ultimately responsible for curtailing unhealthy industries and their influence on public health policy.