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Lobbying the European Commission: What's at Stake If the Tobacco Industry Gets Its Way?

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A recently published paper has found that industry lobbying is pervasive across eight Directorates-General (DGs) throughout the European Commission (EC).

Researchers from Corporate Europe Observatory (CEO) and the European Public Health Alliance (EPHA) analyzed documents collected in 2019 and 2020 to determine the extent of contact between the DGs and the tobacco industry—including third parties in receipt of tobacco industry funds, as well as influential vaping groups that are financially independent, but whose messaging is consistent with the industry.

The seven lobbying strategies used to influence the European Commission

While they faced a number of barriers throughout the Freedom of Information request process, the researchers concluded that the documents they were able to obtain revealed that seven industry lobbying tactics were being used:

- 1. Promoting untruths:** Commissioning their own studies and publicizing (often non-peer-reviewed) research that casts doubt on the scientific consensus around tobacco
- 2. Postponing regulations:** Delaying or discouraging the introduction of new tobacco control legislation and the revision of existing legislation
- 3. Playing the victim:** Portraying themselves as the victims of smuggling and excessive regulation despite evidence of alleged [complicity](#)
- 4. Protesting against regulators:** Criticizing tobacco control advocates and entities that facilitate the implementation of World Health Organization (WHO) Framework Convention on Tobacco Control's (FCTC) Article 5.3

- 5. Preying on third countries:** Advocating for European Union (EU) Free Trade Agreement measures that benefit the tobacco industry in contravention of FCTC Article 5.3, which recommends that governments not give the tobacco industry benefits or incentives to run its business
- 6. Pushing new technologies:** Attempting to distinguish novel products from cigarettes, arguing that they help smokers to "make the switch"¹ and "are developed exclusively for adult smokers"² when, in fact, they attract a new audience, including young people³
- 7. Playing the EC off against member states:** Arguing that public health legislation in a particular member state could distort competition rules, or that the EU single market is threatened as products are subject to different rules in different countries, and therefore cannot move freely

Many of these tactics are part of [Big Tobacco's playbook](#), which it has relied on for decades in order to delay, circumvent or outright prevent effective tobacco control policies from being enacted. While the FCTC, and specifically Article 5.3, is designed to protect against this very interference, the report found that the EC struggled to fully implement these measures. Without this important line of defense, the EC remains exposed to the industry's relentless efforts to subvert policy.

The three major EC initiatives at risk of industry influence

If industry lobbying goes unchecked, policies intended to improve public health could end up serving the interests of tobacco companies instead. The report authors predict an increase in lobbying targeted specifically at these forthcoming plans.

The Tobacco Excise Directive

The Tobacco Excise Directive (TED) was established in 2011 to organize manufactured tobacco products into categories and define the structure of excise duty and minimum tax rates.⁴ In February 2020, the TED was found to no longer be effective in deterring tobacco consumption,⁵ and its initial lower excise duties for novel products, including

e-cigarettes, heated tobacco products and heat sticks, was due for a review. The evaluation of the TED concluded that "a more comprehensive approach, taking on board all aspects of tobacco control, is needed."⁶

Tobacco companies and vaping organizations alike have opposed or requested delays to revisions of the TED, even prior to this new call for review. The tobacco industry has a history of engaging with DG TAXUD (the Directorate-General for Taxation and Customs Union) about excise duties, and vaping associations have tried to make the case that new regulations are a burden to small and medium enterprises.⁷

If industry lobbyists continue applying pressure and are successful in exerting their influence, the EC may miss an opportunity to modernize and harmonize taxation across the EU for new and existing tobacco and nicotine products. This opportunity is significant. Raising taxes on tobacco is a well-known win-win: It's a cost-effective way to reduce tobacco use⁸ and increases much-needed tax revenues for governments. Increasing taxes to fix the tax disparity between some EU member states could also help curb the illegal trade that these discrepancies facilitate.

The Tobacco Products Directive

The Tobacco Products Directive (TPD), which is up for review and possible revision in 2021, outlines the rules around the manufacture, presentation and sale of tobacco and related products in the EU.⁹ The TPD is responsible for health warning requirements on cigarette packages, the prohibition of flavored cigarettes, a ban on promotional and misleading elements on tobacco products and e-cigarettes, the introduction of an EU-wide track and trace system and much more. Tobacco companies have a history of fighting against tobacco control measures such as these, and have a vested interest in preventing new regulations and watering down existing ones.

If the industry is allowed to continue influencing DGs, the implementation of these life-saving policies could be compromised. In 2019, Philip Morris International asked DG SANTE (the Directorate-General for Health and Food Safety) to delay the introduction of the track and trace system,¹⁰ but the request was denied. The industry is expected to continue making these requests and finding other ways to delay or subvert the track and trace regulations, which, if enacted, could reduce illicit trade—a practice the tobacco industry itself has been accused of engaging in.¹¹

During the TPD's last revision in 2014, the former European Health Commissioner resigned following a lobbying controversy. This suggests the industry sees the TPD as a key lobbying target.

Europe's Beating Cancer Plan

The [newly released Cancer Plan](#) aims to tackle “the entire disease pathway,” with an emphasis on prevention. As 27% of all cancers in the WHO European region are attributed to tobacco use,¹² the new Plan lays out a framework for drastically reducing tobacco consumption, hoping to achieve a “Tobacco Free Generation,” by 2040. To accomplish this, the new Plan calls for plain packaging and a full ban on flavors, but also provides guidance on newer tobacco control challenges, including addressing novel products, such as e-cigarettes and heated tobacco products, and product marketing on the internet and social media.

The Plan specifically calls for stricter rules for novel products and extending taxation to cover such products. As tobacco taxation is one of the most effective methods for reducing tobacco consumption,¹³ these measures must be enacted if the EU wants to achieve its cancer reduction goals. As these measures could also threaten tobacco industry profits, lobbyists will likely apply pressure to delay or prevent them from being enacted. Further, while the Plan provides high-level ambitions, some of the details for implementation have yet to be filled in. If lobbying continues, the industry could set out to water down these ambitions, ultimately reducing the positive impact the Plan may have on reducing tobacco use and reducing cancer in the EU.

The three ways the EC can protect itself from industry influence

To limit the industry's influence over these important policies, the report authors recommend that the EC:

1. Proactively list all meetings (including minutes) and correspondence between Commission officials and the tobacco industry and/or their representatives on a central and easily accessible public register, such as [the one used in the Netherlands](#).

2. Outline and establish a clearly defined policy regarding how officials should handle contacts with the industry
3. Broaden the interpretation of public interest to include transparency around lobbying and the protection of public health as overriding objections related to so-called personal data and the protection of commercial interests.

Learn more by reading [the full report](#).

Endnotes

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