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Joint Nordic Guidance for Public Officials on Interacting with the Tobacco Industry

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Executive Summary

Tobacco use remains a leading cause of preventable death and disability as well as social health inequalities in the Nordic countries.

As stated by the World Health Assembly resolution WHA54.18 on transparency in tobacco control process, the tobacco industry has operated for decades with the intention of subverting the role of governments in developing and implementing public health policies to combat the tobacco epidemic.

The Nordic countries are Parties to the WHO Framework Convention on Tobacco Control (FCTC), which aims to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

FCTC Article 5.3 requires public officials to protect public health policies in relation to tobacco control *“from commercial and other vested interests of the tobacco industry”*.

This Guide has been adopted by the health ministers of Denmark, Iceland and Norway.¹ The ministries of health agree that the obligations under Article 5.3 should extend to new and emerging products, such as e-cigarettes, nicotine pouches and heated tobacco products, due to the increasing integration between their manufacturers and the tobacco industry.

This Guide outlines the legal obligations placed on public agencies and officials by the FCTC and is meant to complement the global FCTC Article 5.3 Guidelines, with concrete examples and advice specifically suited to the circumstances in the Nordic countries. It should be viewed as a part of a comprehensive strategy of tobacco control.

The Ministry of Health in each country can be contacted if you have any questions or doubts about whether this Guide applies to you or a specific situation.

¹ When the term “Nordic” is used in this guide, it generally points to the three Nordic countries Denmark, Iceland and Norway

1 Introduction

All the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden) have for years had a fruitful government collaboration in the tobacco control area. Denmark, Iceland and Norway have now taken this collaboration a step further by adopting this Guide. These governments are committed to reducing the prevalence of tobacco and nicotine use and its associated health, social, economic and environmental costs, and the inequalities it causes. There is no safe level of tobacco and nicotine consumption. These products are highly addictive and dangerous to health, especially for children and young people.

FCTC Article 5.3 requires public officials to protect public health policies in relation to tobacco control *“from commercial and other vested interests of the tobacco industry”*. This Guide outlines the legal obligations placed on public agencies and officials by the FCTC and as such should be viewed as a part of a comprehensive strategy of tobacco control.

The purpose of this Guide is to provide guidance to agencies and public officials on the implementation of the obligations under FCTC Article 5.3. It is intended as a framework for best practice implementation of these obligations. The Guide is not intended to replace legislative requirements, regulatory frameworks or policies.

Also, this Guide is not intended to affect the legal obligations of agencies and public officials, for example, to maintain the secrecy and confidentiality of information or to ensure privacy, nor is it intended to prevent legitimate and necessary engagement with the tobacco industry for the purposes of effectively regulating the tobacco industry and its products.

Article 5.3 of the WHO FCTC

Under the FCTC Article 5, all parties must adopt and implement effective measures for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.

The FCTC also obliges all parties to take steps to protect its tobacco control policy setting and implementation from interference from the tobacco industry and its interests. This obligation comes from Article 5.3 of the FCTC, which 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”.

World Health Assembly resolution WHA54.18 on transparency in tobacco control process, citing the findings of the Committee of Experts on Tobacco Industry Documents, states that “the tobacco industry has operated for years with the express intention of subverting the role of governments and of WHO in implementing public health policies to combat the tobacco epidemic”. The Preamble of the FCTC recognized the Parties’ “need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts”.

The Nordic Governments and the tobacco industry are pursuing conflicting goals – there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and the Governments’ public health policy interests.² For these reasons, public officials should interact with the tobacco industry only when and to the extent strictly necessary to achieve effective regulation and policy development.

The FCTC Parties have adopted ‘Guidelines for Implementation’ of Article 5.3 in order to help Parties in interpreting and meeting their legal obligations under Article 5.3. The purpose of these guidelines is to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective. Parties 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.

The FCTC Article 5.3 Guidelines contain the following Guiding Principles:

Principle 1: There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests.

Principle 2: Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent.

Principle 3: Parties should require the tobacco industry and those working to further its interests to operate and act in a manner that is accountable and transparent.

Principle 4: Because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses.

² WHO Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control, Principle 1, p.2: *‘There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests’*. file:///C:/Users/HOD1388/Downloads/WHO-FCTC-Article-5.3%20(3).pdf

2 What constitutes ‘public health policy’ in relation to tobacco control?

This guide pertains to the setting and implementing of public health policies with respect to tobacco control. Any tobacco control policy or program constitutes a public health policy in relation to tobacco control if it fulfils the aim of improving the health of the population in this regard. This includes all steps of the process, from the development of new tobacco control initiatives as well as the implementation, monitoring and enforcement.

Such tobacco control policies and programs could include strategies, regulation or policies to reduce tobacco and nicotine supply, consumption and exposure; taxation, excise and price programs; retail and other licensing arrangements; illicit trade or environmental strategies and activities, committees and inquires for developing new policy and legislation.

3 Is this Guide relevant to you?

This Guide is designed to help public officials, other government employees and people acting on their behalf to deliver tobacco control policies in line with our legal obligations as Parties to the WHO FCTC.

For the purposes of this Guide, you are a **public official** if:

- You are an official, representative or employee in a government agency, body or entity, for example:
 - a ministry employee
 - an employee of a public authority or institute
 - a posted officer representing a Nordic country abroad
- You are acting on behalf of any branch or level of government, including as:
 - a contractor or consultant

Moreover, if you are a Member of Parliament, their staff or an elected or appointed official on national, regional or local level, and are working with public health policies, this Guide is also pertinent for you.

If relevant it can be considered incorporating this Guide into staff induction materials.

The FCTC Article 5.3 guidelines

- apply to setting and implementing Parties' public health policies with respect to tobacco control.
- apply to persons, bodies or entities that contribute to, or could contribute to, the formulation, implementation, administration or enforcement of those policies.
- are applicable to government officials, representatives and employees of any national, state, provincial, municipal, local or other public or semi/quasi-public institution or body within the jurisdiction of a Party, and to any person acting on their behalf. Any government branch (executive, legislative and judiciary) responsible for setting and implementing tobacco control policies and for protecting those policies against tobacco industry interests should be accountable.

4 Who is the tobacco industry?

The tobacco industry should not be in a position to influence the implementation of tobacco control measures and policies.

Consultation with the tobacco industry should be limited to what is necessary for public officials or agencies to enact effective tobacco control measures. This includes the development of law to enact policy that directly regulates the tobacco industry and its products.

For the purposes of this Guide, taking into account FCTC Article 1 and Article 5.3 and its guidelines, the following definition applies:

“Tobacco industry” means tobacco manufacturers, wholesale distributors, and importers of tobacco products. In addition, the term “tobacco industry” includes tobacco growers, associations or other entities representing any of the above, as well as industry lobbyists.

The FCTC Article 5.3 also concerns protection against interference from those working to further the interests of the tobacco industry. Examples are retailers of tobacco products or related products when they further the interests of the tobacco industry, interest groups, lobbyists, think tanks, advocacy organizations, lawyers, researchers, companies or foundations that represent or work to promote the interests of the tobacco industry.

It can sometimes be difficult to recognize the tobacco industry and those working to further its interests, but be cautious of who is contacting you regarding tobacco issues. The University of Bath has created a website which includes the possibility to search companies and products for tobacco industry links: <https://tobaccotactics.org/topics/companies-products/>. If you are in doubt of whether a company or a person is part of or representing the tobacco industry, you may contact your Ministry of Health.

Each Nordic country will take into account, that according to the FCTC Article 5.3 guidelines, parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists.

Inclusion of new and emerging products in Article 5.3 obligations

In recent years, there has been increasing integration between the tobacco industry and manufacturers of other products, even the pharmaceutical industry.

In December 2023 the WHO called to action on e-cigarettes – that urgent and strong decisive action to prevent uptake of e-cigarettes, which are harmful to health, should be taken to protect children, as well as non-smokers and minimize health harms to the population.³

The Nordic countries find that it is consistent with the requirements of Article 5.3 to extend the obligation to protect tobacco control policies from commercial and other vested interests of the tobacco industry to new and emerging products, such as e-cigarettes, nicotine pouches, herbal products and heated tobacco products.

For the purpose of this Guide, when we refer to “tobacco industry”, the term is meant to include tobacco industry and all those working to further its interests, also when it comes to novel and emerging tobacco and nicotine products and other related products.

³ WHO, *Electronic cigarettes: call to action*, 2023; [Electronic cigarettes: call to action](#)

5 Tobacco industry tactics

WHO has identified strategies used by the tobacco industry to avoid, prevent, weaken and delay effective tobacco control policies.⁴ Below are some examples:

- Public relations: To mould public opinion, using the media to promote positions favourable to the industry.
- Consultancy: To recruit supposedly independent experts who are critical of tobacco control measures, to influence public debate and research.
- Funding research: To create doubt about evidence of the health effects of the use of tobacco products.
- Creating alliances and front groups: To mobilize retailers, advertising agencies, the hospitality industry, grassroots and anti-tax groups with a view to influencing legislation.
- Intimidation: To use legal and economic power as a means of harassing and frightening opponents who support tobacco control.
- Corporate social responsibility: To create an illusion of being a 'changed' company and to establish partnerships with health interests, and buy social respectability from arts, sports, humanitarian and cultural groups.
- Litigation: To challenge laws and intimidate tobacco industry opponents.
- Smuggling: To undermine tobacco excise tax policies and marketing and trade restrictions and thereby increase profits.

In recent years we have seen a development where the tobacco industry uses new tactics such as "greenwashing" (promoting sustainability, the environment and combatting child labour), influencer marketing on social media and funding research through supposedly independent foundations.

⁴ WHO, *Tobacco industry interference with tobacco control*, 2008; [Tobacco industry interference with tobacco control](#)

6 Limiting interactions with the tobacco industry

The FCTC Article 5.3 Guidelines state that consultation with the tobacco industry should be limited to what is necessary for public officials or agencies to enact effective tobacco control measures. This includes the development of law or policy that directly regulates the tobacco industry and tobacco products.

Meetings with politicians should as a main rule not be regarded as “necessary” as such meetings will automatically deal with policy issues. Meetings with the government should as a main rule only be held if necessary and on a technical level.

Any consultations with the tobacco industry on matters related to tobacco control or public health should wherever possible be public, accountable and transparent. The Nordic countries recommend that whenever possible, information about meetings, consultations and other communications with tobacco industry and its representatives regarding policy issues, should be publicly available. This can be achieved in different ways, such as, but not limited to, information on the relevant organisation’s website or in a registry for the relevant public authority.

Levels of interaction with the tobacco industry will vary from entity to entity. For some, interactions would be highly unusual. Entities that wish to further make sure that their interactions with the tobacco industry is limited to what is necessary should apply one or more of the following restrictions, as appropriate:

- Have more than one official present at any meeting.
- Have communication in writing and for email interaction, other officials should be on copy.
- Ensure to take minutes/written summary of all meetings or interactions, with sufficient detail to establish, at a minimum:
 - the date, location, nature and method of the interaction or contact
 - the names of the parties and individuals involved
 - the matters discussed or considered and any decisions taken
 - any follow up activity planned or anticipated.
- Do not agree to side meetings or accept invitations to social events or hospitality, such as offers for lunch, product or gifts.
- Do not engage in any interaction that creates the perception of cooperation.

Other agencies will need to have ongoing contact with the tobacco industry, for example, to ensure the effective administration of and compliance with legislation. These agencies should ensure that interactions are limited to those that are necessary by applying the principles outlined in this Guide as appropriate, for example:

- Limit the opportunities that the tobacco industry has to influence, undermine or defeat tobacco control policies.
- Stay mindful that the tobacco industry may have disguised objectives in conducting otherwise routine interactions.
- Stay mindful that entities may have disguised connections to the tobacco industry.
- If the tobacco industry or its representatives request a meeting, ask for topics in advance to facilitate an assessment of whether a meeting is “strictly necessary”.
- No topics outside of the agenda should be discussed during the meeting.
- Ensure other members of your team are kept aware of meetings and interactions with the tobacco industry. Never interact with the tobacco industry alone.

These agencies should also ensure that staff members are aware of Article 5.3 and are mindful of any interactions that are out of the ordinary.

This Guide does not replace or detract from existing legislative and regulatory requirements on government agencies and individual public officials to maintain secrecy, confidentiality and privacy.

7 Avoiding and managing conflicts of interest with the tobacco industry

The FCTC Article 5.3 Guidelines urge all parties to have clear rules regarding conflicts of interest for government officials and employees working in tobacco control. These are important means for protecting such policies from interference by the tobacco industry.

It is important to avoid all real and perceived conflicts of interest with respect to the tobacco industry.

No organisation or individual with a commercial or vested interest in the tobacco industry should be involved in developing or implementing public health and related policies/programs on tobacco control.

The Nordic countries recommend transparency, wherever appropriate, about current, or previous connection, involvement or relationship with the tobacco industry and those working to further its interests, including but not limited to:

- Occupational activity with the tobacco industry, whether gainful or not.
- Any contributions from the tobacco industry, including research funding.

8 Information and research initiated, financed or influenced by the tobacco industry

The Nordic countries note that information offered by the tobacco industry and those working to further its interests, outside of disclosures required by law, should be treated with caution and carefully scrutinised to minimise opportunities for the tobacco industry to manipulate information, cause confusion among the public and government, and undermine public health policies in relation to tobacco control.

Most leading scientific journals do no longer accept research partly or wholly funded by the tobacco industry. This is due to the fact that it is well documented that the tobacco industry for decades has misused research to create both scientific and popular “doubt” about health effects and tobacco control measures.

It is also common for scientific institutes to disregard or put less emphasis on research from the tobacco industry when performing evidence reviews etc.

9 Rejecting partnerships with the tobacco industry

Stated by the FCTC Article 5.3 Guidelines are partnerships between any level of the government and the tobacco industry – whether formal or informal – problematic. There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests. Creating the perception of cooperation between government and the tobacco industry can bolster the tobacco industry's reputation and generate goodwill and public acceptance for tobacco companies.

The Nordic countries want to minimise tobacco industry interference by rejecting any partnership of any kind with the tobacco industry and limiting interactions with the tobacco industry.

Partnerships with the tobacco industry are inappropriate, including but not limited to:

- legal and voluntary agreements with the tobacco industry, including contracts or memoranda of understanding,
- accepting offers from the tobacco industry or agents of the tobacco industry to assist with the development of tobacco control legislation or policy, or to participate in industry-sponsored tobacco control measures,
- accepting, supporting or endorsing any voluntary code of conduct or regulatory instrument drafted by the tobacco industry or agent,
- engaging in a 'joint operation' with the tobacco industry on any aspect of law development or law enforcement and
- supporting or endorsing the tobacco industry organising or promoting any public education initiative, environmental issues and actions against illicit trade and excise fraud

10 Avoiding preferential treatment

The FCTC Article 5.3 Guidelines state that because their products are lethal, the tobacco industry should not be granted incentives to establish or run their business. Any preferential treatment of the tobacco industry would be in conflict with tobacco control policy.

The Nordic countries should avoid preferential treatment to tobacco industry (including perceptions of such treatment) by, but not limited to:

- Reporting any and all attempts to accept contributions from the tobacco industry, except for compensation due to legal settlements, mandated by law or pursuant to legally binding agreements.
- Not providing preferential tax exemptions to the tobacco industry.
- Not granting incentives, privileges or benefits to the tobacco industry.
- Not investing in the tobacco industry.
- Not giving or receiving any awards or accolades to/from the tobacco industry.
- Not engaging with foreign governments in their capacity as representatives of their tobacco interests.

11 De-normalising the tobacco industry as ‘socially responsible’

The tobacco industry undertakes corporate social responsibility activities that are intended to promote, enhance or market the corporate brand, product, public relations or related image. These may include any youth, public education, political, social, financial, educational or community contribution, such as:

- financial contributions to non-government organisations,
- promoting or encouraging activities to work with governments, for example to address the illicit trade in tobacco or supporting environmental projects,
- promoting products purportedly claiming to be less harmful than conventional tobacco products,
- providing scholarships or awards and
- hosting events where often influential people are invited

Many such activities would be in breach of the ban on tobacco sponsorship and the advertising ban. If you are approached about, or become aware of, any tobacco industry ‘corporate social responsibility’ initiatives:

- **Emphasise** in internal and external communications that you and your agency will not deal with the tobacco industry and will take active measures to avoid interactions with the tobacco industry other than those necessary to effectively regulate the industry and its products.
- **Do not** endorse, support, form partnerships with or participate in activities of the tobacco industry.
- **Act to correct** any perceptions of such support or participation.
- **Be cautious** of any claims of ‘socially responsible’ activities.
- Do not attend **conferences** or events hosted, organized, sponsored or financed by the tobacco industry. Be vigilant if tobacco industry attends conferences or events and as far as possible avoid contact.
- Try to avoid **photos** etc. together with tobacco industry representatives.
- **Inform** your Ministry of Health.

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