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INDEX

Policy brief

## Acknowledgements

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**Context:** The 2021 UK Tobacco Industry Interference Index (UKTI) forms part of the [Global Tobacco Industry Interference Index](#) (GTI), a global survey of how public health policies are protected from the industry's subversive efforts, and how governments have pushed back against this industry influence. The Tobacco Industry Interference Index (TI) was initiated by the [South East Asian Tobacco Control Alliance](#) (SEATCA) as a regional report with support from Bloomberg Philanthropies and is part of a global publication of the [Global Center for Good Governance in Tobacco Control](#) (GGTC) at the School of Global Studies in Thammasat University, Thailand.

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### Key acronyms used in this document

<b>APPG</b>	All-Party Parliamentary Group
<b>CSR</b>	Corporate Social Responsibility
<b>DEFRA</b>	Department for Environment, Food and Rural Affairs
<b>DHSC</b>	Department of Health and Social Care
<b>FCO</b>	Foreign and Commonwealth Office (now the Foreign and Commonwealth Development Office)
<b>FCTC</b>	Framework Convention on Tobacco Control
<b>GTI</b>	Global Tobacco Industry Interference Index
<b>HMRC</b>	Her Majesty's Revenue and Customs
<b>PHE</b>	Public Health England
<b>UKTI</b>	United Kingdom Tobacco Industry Interference Index
<b>WHO</b>	World Health Organization

## Summary

This is the third annual report examining how effective the UK government is at preventing the tobacco industry from interfering in policy and legislation. It forms part of the GTI, which this year includes 80 countries, up from 57 last year. This report, covering the period January 2020-March 2021 found that:

- the UK compared favourably to most other countries but there is still room for improvement
- the UK's score remains unchanged since the last report, at 32
- the UK is in third position globally

This brief explains the background and context to the UKTI, outlines its strengths and limitations, and makes key recommendations.

## Background

**Smoking and tobacco industry in UK:** Smoking is the leading cause of preventable illness and premature death in the UK, accounting for approximately 96,000 deaths every year.<sup>1</sup> Two of the four major transnational tobacco companies have their headquarters in the UK.<sup>2</sup>

**The WHO Framework Convention on Tobacco Control:** In 2003, the World Health Organization (WHO) adopted the Framework Convention on Tobacco Control (FCTC), which came into force in 2005.<sup>3</sup> Developed in response to the global tobacco epidemic, it reaffirms every person's right to the highest standard of health and provides a legal framework for international health cooperation. It is a landmark public health treaty. In total, 182 WHO member states have become "Parties to the Convention". The Convention sets out specific steps for governments to address tobacco use.

**Article 5.3 of the FCTC:** As the backbone of the Convention, Article 5.3 and its implementation guidelines provide specific guidance to Parties on how to protect themselves from the interests of the tobacco industry (hereafter industry). Specifically, it states that: "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."<sup>4</sup>

**The GTI:** The GTI,<sup>5</sup> first published in 2019, is an annual global assessment of how well governments have implemented Article 5.3. The 2021 GTI compares efforts made by governments to tackle industry interference in policy and legislation in 80 countries using a scoring system developed by SEATCA. It allocates a score of 0-5 to each of 20 indicators, with a low score indicating better implementation of Article 5.3.

**The UKTI:** The UKTI uses the GTI's scoring system to measure how effectively the UK implemented Article 5.3 during January 2020-March 2021.

**Note on the use of "government":** In line with the GTI protocol, this document applies the term "government" widely to cover not only the UK government and devolved administrations, and their public officials, but also backbench politicians, and political parties. Although these are not technically part of government, they are included because of the important role they play in policy development and law-making in the UK's parliamentary system. This coordinated approach is necessary to allow comparisons between the countries included in the GTI.

**Strengths of UKTI:** The UKTI forms part of the GTI – the first global index measuring governments’ response to industry interference in policy. It provides a report on the implementation of WHO FCTC Article 5.3 in the UK and can help policy makers identify gaps in protecting public health policies from commercial and other vested interests of the industry.

**Limitations of UKTI:** The UKTI is based on publicly available information, supplemented by research on the industry conducted by the Tobacco Control Research Group at the University of Bath, and monitoring data collected by [Tobacco Tactics](#). It is likely that certain covert instances of industry policy interference in the UK have not been identified and are thus missing from this report, as may be the case for other countries in the GTI. Furthermore, the countries included in the GTI are characterised by a range of different political systems and policy structures. This means that international comparisons between countries are difficult and require compromises in the use of certain terms and definitions (see Note on the use of “government” above).

## Key findings

### Industry participation in policy development

The UK government, and devolved administrations, did not accept offers of assistance from the tobacco industry, endorse their policies, nor invite industry representatives to attend policy meetings. The UK delegation to the WHO FCTC Conference of the Parties (COP) excluded industry representatives. However, there were instances of industry representatives, or organisations affiliated to the industry, participating in or funding informal parliamentary groups. The tobacco industry is allowed to provide responses to public regulatory consultations, and failure to do so could leave any tobacco control legislation open to legal challenge. Tobacco companies and their allies made the most of these opportunities, meaning that in some consultations, many responses were aligned with the industry’s own narrative and interests. However, respondents to health-related consultations are required to declare any link to the industry.

### Industry corporate social responsibility (CSR) activities

Tobacco industry activities described as “socially responsible” were not banned in the UK. There were instances of the government requesting research and development support from the tobacco industry during the COVID-19 pandemic, of an MP supporting an industry study into illicit trade, and several government departments were members of a think tank, the Royal United Services Institute, which also had tobacco industry members. The tobacco industry continued to promote its CSR activity among parliamentarians using informal parliamentary groups and direct lobbying.

### Benefits to the industry

The UK government, and devolved administrations, did not grant exemptions to the tobacco industry. However, there were no clear rules mandating the government not to provide preferential treatment to the industry. The major tobacco companies continued to pay very low levels of corporation tax in the UK, due to generic rules on corporation tax which are not specific to the tobacco industry. After Brexit, the UK conducted a consultation on duty-free and tax-free products. This included submissions from the travel, alcohol and tobacco industries, and led to the UK extending duty-free allowances for tobacco products to travellers returning from the EU. However, the previous duty-free allowances for travellers from the EU were removed and, for the first time, heated tobacco products were included in the duty-free limits.

**Unnecessary interactions**

There was no evidence that top-level UK officials attended tobacco industry social functions, but several instances of unnecessary interactions between the tobacco industry and more junior officials, diplomats, and politicians were noted. At the time of writing this report, parliamentary data on functions and hospitality covered only the period to 31 July 2020. There was no evidence that the government or devolved administrations accepted assistance from the industry for their tobacco control activities, but there were cases of limited engagement with the tobacco industry by local authorities. The government hosted a roundtable with the industry to tackle cigarette butt litter in the UK, yet at the same time announced its aim to use environmental legislation, rather than a voluntary approach, to make tobacco manufacturers clear up the toxic waste caused by cigarette butts.

**Transparency**

In the past, the Department of Health and Social Care (DHSC) adopted guidelines for the implementation of Article 5.3, requiring organisations it engaged with to disclose any links with the tobacco industry. However, there was no general requirement for the industry and affiliated entities to register with the government. Given the industry's growing use of third parties and the challenges of tracing its links to, and funding of, third parties, this continues to be an important omission.

**Conflict of interest**

General rules regulated political contributions to political parties, candidates and campaigns, and the disclosure of such contributions worth over £7,500. However, no legislation specifically prohibited the tobacco industry from making political donations. No government officials held positions in the tobacco industry, but several instances of past involvement, direct and indirect, have been identified, including for senior government officials during the period in question.

**Preventive measures**

There was no comprehensive set of rules regulating public officials' interactions with the tobacco industry, aside from the Foreign and Commonwealth Office (FCO) code. There was a government procedure for disclosing the records of interaction with the tobacco industry, but this has been implemented only in part. Some agencies, e.g. Public Health England (PHE) and the Department for Environment, Food and Rural Affairs (DEFRA) published minutes of meetings with the industry and its stakeholders, while the Scottish government required a declaration of interests at its Ministerial Group on Tobacco. Some departments e.g. HM Revenue and Customs (HMRC), published very little detail about meetings, while others, e.g. HM Treasury, reported meetings regularly for a period but then stopped.

Tobacco manufacturers collected data on profits, taxes, prices, sales, marketing and research spend and were required to provide some of these data to government. However, taxpayer confidentiality laws have been applied to prohibit the publication of data provided to HMRC and the government was allowed to publish information only on the ingredients in, and emissions from, tobacco products. There was no evidence of a systematic strategy to raise awareness of policies related to the Article 5.3 implementation guidelines in government departments or devolved administrations. Finally, there was no specific policy preventing government officials from accepting industry contributions (or people moving from civil service posts to jobs in the tobacco industry, or vice versa), although such interactions were separately governed by anti-corruption regulations.

## Recommendations

1. Require, collect and publish industry data on profits, taxes, prices, spending on marketing research, and local data on sales of all products as recommended by the backbench All-Party Parliamentary Group (APPG) on Smoking and Health – and ensure such data are published in a useable format, and if possible, with a breakdown by devolved nation.
2. Ensure comprehensive procedures for publishing details of all meetings with the tobacco industry, and vested interests (groups and individuals funded by the industry), are fully implemented across all government departments.
3. Implement and embed central and devolved government programmes to regularly raise and maintain awareness of Article 5.3 and how to comply with it across the whole of government.
4. Require DHSC to develop and disseminate, in partnership with devolved administrations, a comprehensive set of rules for public officials, prescribing standards public officials should comply with in their dealings with the tobacco industry and vested interests.
5. Ban CSR activities by the tobacco industry and vested interests.
6. Require better enforcement of the FCO guidelines.
7. In government summaries, identify and separate out the tobacco industry's responses to regulatory consultations that relate to public health and tobacco control.
8. Create and maintain a legally binding and publicly accessible register that covers all lobbying and policy influence activity across UK administrations. Furthermore, make it a legal requirement for organisations involved in policy discussions to register and disclose their funding before lobbying. Ensure that organisations failing to register or fully declare funding are excluded from policy discussions.
9. Avoid conflicts of interest by prohibiting the tobacco industry and vested interests from making contributions (monetary or otherwise) to political parties and public officials at all levels. The latter would include offers of assistance, policy drafts, study visit invitations, hospitality, and funding. Prohibit public officials from holding positions in, or being seconded to, the industry, or taking up posts with the industry for at least five years after leaving public positions (and vice versa).
10. Audit HMRC to ascertain whether the government provides preferential tax exemption to the tobacco industry and remove duty-free concessions for tobacco products. Exempt the tobacco industry from being able to reclaim against corporate tax for marketing (including CSR) and promotions.
11. Ensure that bilateral trade agreements developed as a result of Brexit are compliant with the UK's obligations as a Party to the WHO FCTC and the Protocol to Eliminate Illicit Trade in Tobacco Products. Also ensure they contain exemptions allowing for the protection of public health.

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<sup>1</sup> ASH, [Facts at a glance](#), 2021

<sup>2</sup> ASH, [The UK Tobacco Industry](#) 2017

<sup>3</sup> WHO, [Framework Convention on Tobacco Control](#), 2020

<sup>4</sup> WHO, [Article 5.3 of the WHO Framework Convention on Tobacco Control](#), 2020

<sup>5</sup> GTI, [The Global Tobacco Industry Interference Index](#), 2021

