

Institution: University of Bath
Unit of Assessment: 22: Social work and social policy
Title of case study: Reducing the tobacco industry's ability to influence public health policies
<p>1. Summary of the impact</p> <p>The University of Bath has undertaken extensive research on the conduct of the tobacco industry (TI) and its influence over public policies.</p> <p>This research has (a) significantly extended understanding of TI influence, by showing that the TI not only attempts to influence public health policies, but also enjoys significant influence over upstream policies; (b) provided some of the best documented examples of corporate influence over EU policy-making, raising concerns about transparency in policy-making; and (c) increased awareness that regulatory reforms known as Better Regulation may pose a threat to public health.</p> <p>The key impact of this research, from 2008, is that it has reduced the ability of the TI to influence public health policy. This has been achieved by contributing to the development and implementation of Article 5.3 of the WHO's <i>Framework Convention on Tobacco Control</i> (FCTC), the WHO's first global health treaty. These impacts involved work with beneficiaries including WHO and a variety of NGOs and by increasing awareness among policy makers of TI influence.</p> <p>Tobacco is the leading cause of preventable mortality globally, accounting for almost 6 million deaths annually. The potential for health gain is therefore very significant. This research has had a substantial and demonstrable impact in securing this.</p>
<p>2. Underpinning research [<i>Numbers in square brackets refer to references in Section 3</i>].</p> <p>The University of Bath has published extensively on TI influence over public policies. This case study is concerned with research that exposes the political strategies of the TI for influencing European Union (EU) policies and then, beyond those, for limiting efforts at global tobacco control through the WHO.</p> <p>The research was based largely on analysis of internal tobacco industry documents released via litigation, along with stakeholder interviews. It showed that:</p> <ul style="list-style-type: none"> • The TI had sought to influence the EU's regulatory infrastructure: in particular: <ul style="list-style-type: none"> ○ In the mid-1990s, British American Tobacco (BAT, the world's second largest tobacco company), joined with other large corporations to campaign for regulatory reforms in Europe. One aim was to ensure that corporations would be consulted early in the EU policy-making process. The second was to secure changes to the EU Treaty, specifying that policymakers must minimise the impact of legislative developments on businesses. [3.2] ○ Within 18 months, BAT and its allies had secured such changes to the EU Treaty. These mandated a form of economic impact assessment that involves early consultation with stakeholders; changes which later became known as Better Regulation. They can serve to favour corporate interests and embed industry participation in EU policymaking. [3.2, 3.3] ○ The use of front groups, including the highly respected think tank, the European Policy Centre, played a key part in BAT's success, ensuring that even the most knowledgeable European civil servants were unaware of the tobacco industry's involvement. [3.5] • The TI used the changes secured at EU level in efforts to undermine the <i>WHO's Framework Convention on Tobacco Control</i> (FCTC) and specifically FCTC Article 5.3, which aimed to limit TI access to policy making [3.4] • Simultaneous with its attempts to influence upstream policies, the TI was actively attempting to undermine developments in EU tobacco control [3.1]. These included efforts to 'block, amend or delay' a proposed tobacco control directive. The use of misleading legal, trade and economic arguments played a key part in industry efforts. [3.5] <p>Refs 3.1-3.5 are based on research led by Gilmore and undertaken variously by the following</p>

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researchers in Bath:

- Prof Anna Gilmore (PI): Reader then Chair in Public Health. 1/8/2007–present.
- Dr Gary Fooks: Research Fellow 1/4/2008-present.
- Dr Katherine Smith: Research Officer 7/4/2008-1/6/2010.
- Dr Sema Mandal: Honorary research officer 2008-2010.

Work on **Refs 3.2-3.5** was undertaken with colleagues at the University of Edinburgh (Collin and Weischaar, School of Social and Political Science) as collaborators on the grant.

3. References to the research

Note: Within public health and medicine, the last named author on peer reviewed papers is the senior author and is given equal weighting to the first author. University of Bath authors are underlined:

3.1 Gilmore A, McKee M. Tobacco-control policy in the European Union. In: *Unfiltered: Conflicts over tobacco policy and public health*. Feldman E, Bayer R (eds). Cambridge, Massachusetts: Harvard University Press, 2004, pp.219-54. (Can be supplied by HEI on request)

3.2 Smith KE, Fooks G, Collin J, Weishaar H, Mandal S, Gilmore A. 2010 ‘“Working the System”’: British American Tobacco’s Influence on the European Union Treaty and Its Implications for Policy: An Analysis of Internal Tobacco Industry Documents’. *PLoS Med* 7(1): [doi:10.1371/journal.pmed.1000202](https://doi.org/10.1371/journal.pmed.1000202).

PLOS Medicine is a prestigious open access medical journal with an IF of 16.27 (Jan 2013). The paper was peer reviewed (3 reviews) and published alongside an editorial. By January 2013 the paper had since been accessed over 16,000 times and cited 27 times.

3.3 Smith KE, Fooks G, Collin J, Weishaar H, Gilmore A. ‘Is the increasing policy use of Impact Assessment in Europe likely to undermine efforts to achieve healthy public policy?’ *Journal of Epidemiology and Community Health*. 2010; 64: 478-487. doi:[10.1136/jech.2009.094300](https://doi.org/10.1136/jech.2009.094300)

JECH is a widely recognised public health journal with an IF of 3.192 (Jan 2013). This paper was peer reviewed (2 reviews) and accompanied by an editorial. By January 2013 the paper had been accessed 4697 times and cited 16 times.

3.4 Smith KE, Gilmore A, Fooks G, Collin J, Weishaar H. ‘Tobacco industry attempts to undermine Article 5.3 and the ‘good governance’ trap.’ *Tobacco Control*. 2009; 8: 509-511. <http://tobaccocontrol.bmj.com/content/18/6/509.full>

Tobacco Control is the leading journal in this field of research. With an impact factor of 3.011 it is the highest ranked single issue public health journal. This paper was also subject to peer review. By January 2013 the paper had been accessed 1943 times and cited 10 times.

3.5 Mandal S, Gilmore A, Collin J, Weishaar H, Smith K, McKee M. ‘Block amend delay: tobacco industry efforts to influence the European Union’s Tobacco Products Directive (2001/37/EC)’. Brussels: Cancer Research UK & The Smokefree Partnership, 2012.

http://www.smokefreepartnership.eu/sites/sfp.ttp.eu/files/EU_TI_TPD_report_May_2012.pdf

This report was informally peer reviewed and published by The Smokefree Partnership.

References 3.2-3.5 were produced under a **Research Grant**: Gilmore A, with Collin J. “*Tobacco industry influence on European Union tobacco control policy making*.” Cancer Research-UK (£150,000), 2007-10.

4. Details of the impact [Numbers in square brackets refer to evidence in Section 5].

Background: In 2005 the WHO’s Framework Convention on Tobacco Control (FCTC), the first global treaty developed under the auspices of WHO, entered into force. Developed to address the global tobacco epidemic, this is one of the most widely embraced treaties in UN history, with 176 WHO Member States now Parties to the treaty.

There was overwhelming evidence – including the research from the University of Bath - that the TI had negatively influenced public health policies in numerous jurisdictions. This prompted the inclusion, within the FCTC, of Article 5.3, which specifically aims to reduce the influence of TI on public policy, by stating that “in setting and implementing their public health policies Parties

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shall act to protect these policies from commercial and other vested interests of the tobacco industry”.

FCTC Articles are operationalised via Guidelines. The Article 5.3 Guidelines were to be agreed at the November 2008 Conference of the Parties (COP) in Uruguay. The implementation of Article 5.3 was, however, fraught with difficulty, given the power of the TI and its heavy lobbying against this Article. The success of Article 5.3 would depend both on the strength of these guidelines and on their subsequent implementation.

Pathways to impact: Gilmore and her colleagues achieved impact for their research through their work with beneficiaries including WHO and public health NGOs such as The Smokefree Partnership, Cancer Research UK and Action on Smoking and Health (ASH). The diverse ways in which these impacts were achieved included:

- They press released the research, so as to secure widespread media coverage in the UK and Europe; and when BAT wrote to the *Guardian* to contest the research findings, they responded robustly, as did Professors from the University of California San Francisco and the University of Sydney [5.1].
- They re-wrote the research findings in alternative formats, to ensure they were accessible to a broad audience. These included (i) a series of briefings given to interested journalists and high level European Commission staff [5.2]; (ii) a report “[The Origin of EU Better Regulation – the Disturbing Truth](#)”, which synthesised the research findings and their relevance for contemporary EU policy, published online by the Smokefree Partnership; (iii) a section in the highly influential European Environmental Agency report *Late lessons from early warnings* [5.3].
- They helped others to use the research. For example, ASH’s 2010 report *A Smoke Filled Room* was based on this research evidence (“*ASH would like to acknowledge the invaluable contribution made to this report by research led by the University of Bath*”) and its 2011 report *Tobacconomics* stemmed from a conference workshop Gilmore et al. arranged on their research [5.4].
- They developed a novel knowledge exchange platform, www.TobaccoTactics.org, to disseminate policy-relevant research findings. This has been described as “*a unique resource for advocacy organisations.... I am aware of more than one high profile media debate where exposure of tobacco industry links of a front organisation, thanks to evidence provided by the TT wiki, has served to undermine industry arguments against key tobacco control measures.*” [5.5]
- They worked with NGOs to ensure the work was disseminated to - and understood by - a large number of key stakeholders, notably civil servants and politicians [5.4].
- In the UK, Gilmore presented research to a House of Lords meeting (2009) [5.5] and gave oral and written evidence to All Party Parliamentary Group enquiries (2010, 2012) [5.4; 5.6] and meetings (2011) [5.4].
- Gilmore also presented and debated the findings at a series of events in the European Parliament (2008, 2010), European Commission (2010) and the European Health Forum at Gastein (“the leading health policy event in the EU”), attended by high level policy makers including the European Health Commissioner [5.2].

Impact: Securing strong Article 5.3 Guidelines and enabling their implementation.

In relation to the REF guidance (REF 01.2012, Main Panel C) we identify four main types of impact.

1. *Improved public understanding of social issues*

This research has helped in “*turning the tide of opinion among both politicians and the public. [This] is a crucial part of the public health fight against tobacco and Professor Gilmore’s group plays a unique and internationally respected role in this.*” [Cancer Research UK: 5.5]

2. *Influencing or Shaping of Relevant Legislation*

With this research having already informed the development of Article 5.3 of this global health treaty, Gilmore and her colleagues were well-placed to influence the 5.3 Guidelines. In the build-up to the November 2008 WHO Conference of the Parties, it became evident that the TI was using the ‘Better Regulation’ commitments it had secured to lobby against the Article 5.3 Guidelines. Gilmore and colleagues prepared a confidential policy briefing for members of the European Health

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Working Group, which includes representatives of all EU Member States and was meeting to finalise the European position on the Article 5.3 Guidelines. This briefing, which summarised the research and its relevance to Article 5.3, “*was instrumental in safeguarding enough support amongst European countries for Strong Article 5.3 Guidelines, in turn ensuring that strong guidelines were agreed at the November 2008 Conference of the Parties.*” [5.2; 5.5]. The Public Health Advocacy Institute stated online: “*Her work has contributed to policy changes in Germany, Russia and the EU and she has brought the documents and knowledge of the tobacco industry conduct to the attention of a large and diverse audience.*” [5.7]

3. Forms of regulation have been influenced

The WHO Article 5.3 Guidelines for Implementation encourage Parties to introduce a range of measures aimed at limiting tobacco company access to policymaking, and increasing surveillance of tobacco industry efforts to exploit their information advantage and influence policy. The research at Bath was cited in the Guidelines [5.8] and contributed directly to a WHO report specifically developed to assist Parties with implementing the Guidelines. Gilmore was a member of the Committee of Experts whose meeting led to this report, which cites nine of her papers [5.9]. The 2008 WHO Europe World No Tobacco Day Medal was given “*in recognition of outstanding contribution to tobacco control*” [5.10].

4. Improved health and welfare outcomes globally

Strong Article 5.3 Guidelines have global benefits because they enable all 176 Parties to the FCTC to protect their policies from TI influence. Implementation of a strong Article 5.3 has also increased the likelihood of effective public health policies at UK and EU levels and the curbing of TI intrusion. Tobacco is the leading cause of preventable mortality globally accounting for almost 6 million deaths annually; a figure predicted to increase to over 8 million by 2030 if current trends continue. The potential for health gain is therefore very significant. Gilmore received the 2009 Public Health Advocacy Institute International Award for Outstanding Use of Tobacco Industry Documents: this was “*presented in recognition of your significant contribution to public health ... to improve the health of people around the world.*” [5.7]

5. Sources to corroborate the impact

5.1: Correspondence in the Guardian including from ourselves and two others:

<http://www.guardian.co.uk/business/2010/jan/20/tobacco-eu-regulation-lung-cancer>

5.2: Letter from Director of Smokefree Partnership;

5.3: European Environment Agency report to which we contributed (see panel 7.1, chapter 7):

<http://www.eea.europa.eu/publications/late-lessons-2>

5.4: Letter from Chief Executive of ASH

5.5 Letter from Director of Strategic projects, Cancer Research UK

5.6: Oral and written evidence to APPG: <http://www.ash.org.uk/APPGoct2010> (p36-42)

<http://www.ash.org.uk/APPGillicit2013>; http://www.ash.org.uk/files/documents/ASH_882.pdf

5.7: Public Health Advocacy Institute Award: <http://www.tobaccodocumentaward.com/winners.html>
(hard copy also available)

5.8: World Health Organization. Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. http://www.who.int/fctc/guidelines/article_5_3.pdf

5.9: World Health Organization. Tobacco industry interference with tobacco control. Geneva:

WHO, 2008. <http://www.who.int/tobacco/resources/publications/9789241597340.pdf>

5.10: World No Tobacco Day Award to Gilmore:

<http://www.euro.who.int/en/what-we-publish/information-for-the-media/sections/press-releases/2008/06/global-campaign-targets-tobacco-industrys-efforts-to-capture-a-new-generation-of-smokers#>