



Physicians *for a* Smoke-Free Canada

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March 3, 2013

The Hon. Leona Aglukkaq
Minister of Health
Health Canada
Ottawa, Ontario
K1A 0K9

Dear Ms. Aglukkaq:

I am writing to request information on Canada's efforts to implement Article 5.3 of the Framework Convention on Tobacco Control with respect to the guideline recommendations concerning conflict of interest.

You will be familiar with the recommendations that governments should not invest in tobacco companies, including:

4.7 Government institutions and their bodies should not have any financial interest in the tobacco industry, unless they are responsible for managing a Party's ownership interest in a State-owned tobacco industry.

7.2 Parties that do not have a State-owned tobacco industry should not invest in the tobacco industry and related ventures. Parties with a State-owned tobacco industry should ensure that any investment in the tobacco industry does not prevent them from fully implementing the WHO Framework Convention on Tobacco Control.

You will also be aware that Australia's government investment agency, the Futurefund, announced last week that it would "exclude primary tobacco producers from its investment portfolio." I append a copy of its media release from February 28, 2013. Following the adoption of the 5.3 guidelines, at least two other countries, Norway and New Zealand, have taken similar decisions to divest of tobacco industry stocks.

Canada continues to invest in the tobacco industry. The most recent report from the Canada Pension Plan Investment Board (March 2012)

shows investments of more than \$800 million in tobacco industry stocks, including shares in the multinationals most active in promoting tobacco use in developing countries (Philip Morris International, British American Tobacco, Japan Tobacco, Imperial Tobacco Group).

In Canada's most recent report to the FCTC, no details are given as to why the Canadian government continues to finance the expansion of global tobacco use. Nor has any information been provided as to what steps your department has taken to try to foster coherence between the actions of your department and those agencies which report through other government agencies.

Nor has your department yet released records to us on the actions taken by your department to promote Article 5.3. Our request for "any/all actions taken to implement Article 5.3 of the FCTC" is numbered ATI-2010-158.

In light of the above, I would be most grateful if you would review this issue with your officials and would communicate to your officials and your cabinet colleagues the need for greater transparency in the administration of this treaty, and greater coherence to its guidelines.

Sincerely yours,

Cynthia Callard
Executive Director

Extract from Canada's third report to the FCTC (2012).

Question 3.1.2

5.3 Protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry

Have you adopted and implemented, where appropriate, legislative, executive, administrative or other measures or have you implemented, where appropriate, programmes on any of the following:

3.1.2.1 – protecting public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry?

Yes

3.1.2.2 – ensuring that the public has access, in accordance with Article 12(c), to a wide range of information on tobacco industry activities relevant to the objectives of the Convention, such as in a public repository?

Yes

3.1.2.3 - If you answered "Yes" to any of the questions under 3.1.2.1 or 3.1.2.2, please provide details in the space below.

Canada has reviewed the Article 5.3 Guidelines in relation to the Canadian policy, legal and constitutional context. Canada has adopted administrative measures, such as Health Canada's policy of not partnering with the tobacco industry on tobacco control programming. Lobbying at the federal level in Canada is regulated under the Lobbyist Registration Act and it is illegal for corporations of any kind to contribute political campaign contributions for electoral purposes. Some provinces also regulate lobbying. Furthermore, the Lobbyist Registration Act introduced a requirement that consultant lobbyists (ie: tobacco related activities) file a return with the Commissioner of Lobbying if they communicate with a designated public office holder (DPOH) under certain conditions. This registry can be searched by anyone through a publicly-accessible Website.

Health Canada has discussed the Article 5.3 Guidelines with its federal partner departments and with relevant departments of provincial/territorial governments who are collaborators in the Federal Tobacco Control Strategy (FTCS). Health Canada is considering what, if any, further measures related to the recommendation of the Article 5.3 Guidelines may be appropriate and feasible in the Canadian context. Generally, in Canada the primary channels of communication between governments and the tobacco industry are limited to (i) technical discussions as required by national law in regard to both health and tax related regulations and (ii) litigation-related responses, as required by national law and practice.

In Canada, many aspects of the tobacco industry's health policy, business and marketing activities are matters of public record. In addition, civil society organizations keep close track of tobacco industry activities and maintain web sites, publications etc for this and related purposes. The tobacco industry must report to government on its research and promotional activities pursuant to Tobacco Reporting Regulations of the Tobacco Act.

Public access to information about the tobacco industry which is reported to the government pursuant to these Regulations is governed by the Canadian Charter of Rights and Freedoms, Access to Information & Privacy Act, and the common law as it relates to confidential business information.

3.1.2.4 - Please provide a brief description of the progress made in implementing Article 5.3 in the past two years or since submission of your last report.

Canada has reviewed the possible implications of Article 5.3 of the FCTC in the Canadian context and has taken steps to inform other federal government departments of the commitment. Canada is working with subsidiary levels of government to ensure that they are aware of the issues and how to manage them