

February 10, 2020

To the attention of:

The Committee on Economic, Social and Cultural Rights

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**Suggested addition to the General Comment on Scientific Progress and Economic, Social and Cultural Rights**

I am writing on behalf of Action on Smoking and Health. Founded in 1967, [Action on Smoking and Health](http://www.ash.org) (ASH), an organization with ECOSOC Status, is the United States' oldest organization devoted to fighting the harms caused by tobacco, both in the US and globally, and dedicated to a world with zero tobacco deaths. ASH is joined in this submission by twenty-seven other organizations from around the world (signatures below).

We agree with section 1 of the General Comment that “science is an extraordinarily powerful tool for advancing human development and promoting the enjoyment of Economic, Social and Cultural Rights (Hereinafter: ESCR). On the other hand, some developments of science and technology can sometimes have a negative impact on the enjoyment of ESCR, for example when they are placed in the service of war and destruction or when they result in new health or environmental risks.” However, we would also like to add that science and technology can also be falsified or manipulated for corporate gain.

There is extensive documentation of the work of organizations or front groups created by or associated with the tobacco industry and of initiatives undertaken by the industry, the goal of all of which is purposefully to use science or pseudoscience to defeat legitimate scientific enquiry into the harm caused by tobacco.<sup>i</sup>

These reports were synthesized by Judge Gladys Kessler of the United States Court of Appeals for the District of Columbia, who described in a finding of fraud on the part of the tobacco industry: “the intricate, interlocking, and overlapping web of national and international organizations, committees, affiliations, conferences, research laboratories, funding mechanisms, and repositories for smoking and health information which Defendants established, staffed, and funded in order to accomplish the following goals: **counter the growing scientific evidence that smoking causes cancer and other illnesses**, avoid liability verdicts in the growing number of plaintiffs’ personal injury lawsuits against Defendants, and ensure the future economic viability of the industry...” [emphasis added]<sup>ii</sup>

Unfortunately, this interference continues today with the newly created Foundation for A Smoke-free World. “In September, 2017, Philip Morris International, one of the world's largest tobacco companies, set up the Foundation for a Smoke-Free World, with almost US\$1 billion of funding over 12 years. The Foundation claims to be an independent scientific body aiming to “accelerate an end to smoking”. Yet controversy has surrounded the Foundation since its inception; its claims of legitimacy and

independence have been strongly disputed.”<sup>iii</sup> There is “...mounting evidence that the Foundation should be seen neither as an independent organisation nor as a primarily scientific one, and suggests that it might be having difficulty convincing researchers and potential funders of its legitimacy and independence as a scientific body.”<sup>iv</sup>

Corporate interference in science is not limited to tobacco. Soda companies have also funded industry-friendly science. “In 2015, the New York Times reported that Coca-Cola paid leading exercise-focused scientists to establish a Global Energy Balance Network (GEBN) to promote the notion that inactivity, not poor diet, is the root cause of obesity—a claim few obesity specialists accept.”<sup>v</sup> An analysis found that those funded by soda companies or the sugar industry were five times more likely to find no link between sugary drinks and weight gain than studies whose authors reported no financial conflicts.<sup>vi</sup>

The irreconcilable conflict between public health and tobacco industry interests is addressed in Article 5.3 of the WHO’s Framework Convention on Tobacco Control (FCTC). The FCTC is the first international treaty negotiated under the auspices of WHO. It was adopted by the World Health Assembly on 21 May 2003 and entered into force on 27 February 2005. It has since become one of the most rapidly and widely embraced treaties in United Nations history.<sup>vii</sup> Article 5.3 of the FCTC 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.”<sup>viii</sup> The Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases again emphasized this point, when it called on countries at the UN, when adopting the Political Declaration, to “Recognize the fundamental conflict of interest between the tobacco industry and public health.”<sup>ix</sup>

The Article 5.3 guidelines provide suggestions on how countries can fulfill that goal. They include that States Parties should “Require that information provided by the tobacco industry be transparent and accurate.”<sup>x</sup> We believe that principle should be incorporated into the General Comment.

**We would like to propose an insertion into Section IV (D), regarding corporate interference in science. Alternatively, this could be an appropriate addition to Section V (A). We suggest:**

*"State parties have an obligation to protect their citizens from undue corporate influence in science. Parties should require disclosure or registration of corporate activities and partnerships that may influence or manipulate scientific activities."*

Thank you for your consideration of this potential addition. We applaud your efforts with the General Comment thus far, and appreciate the opportunity for comment.

Sincerely,

*Action on Smoking and Health (US)*

*Alianza por control Enfermedades no Transmisibles (AENT)-Chile*

*Airspace Action on Smoking and Health*

*ASH Finland*

*Association Healthy Romania Generation 2035*

*BLUE 21 / Unfairtobacco*

*Corporate Accountability International*

*Comité National Contre le Tabagisme (CNCT)*

*Educar Consumidores*

*European Network for Smoking Prevention (ENSP)*

*Fresh- England*

*Fundación Anaas*

*Fundeps (Fundación para el Desarrollo de Políticas Sustentables)*

*Iranian Anti-Tobacco Association*

*Norwegian Cancer Society*

*Mary Anne Charity Trust- India*

*OxySuisse*

*Public Health Advocacy Institute*

*Public Health Law Center*

*Southeast Asia Tobacco Control Alliance (SEATCA)*

*Smoke Free Israel*

*SOS Tabagisme-Niger*

*STOP: Stopping Tobacco Organizations and Products*

*Swarna Hansa Foundation-Sri Lanka*

*Tobacco Control Alliance- Georgia*

*Tobacco - Free Association of Zambia*

*UBING*

*VISA Mauritius*

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- <sup>i</sup> World Health Organization. Tobacco Free Initiative. *Tobacco industry interference with tobacco control*. Available at <https://www.who.int/tobacco/publications/industry/interference/en/>
- <sup>ii</sup> United States v. Philip Morris USA Inc., 9F. Supp. 2d 1 (D.D.C. 2006). Available at <https://www.publichealthlawcenter.org/sites/default/files/resources/doj-final-opinion.pdf>
- <sup>iii</sup> Legg, et al. *The Philip Morris-funded Foundation for a Smoke-Free World: tax return sheds light on funding activities*. Available at [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)31347-9/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)31347-9/fulltext) .
- <sup>iv</sup> *Id.*
- <sup>v</sup> Greenhalgh, Susan. (2019). *Soda industry influence on obesity science and policy in China*. Journal of Public Health Policy. Available at [https://www.researchgate.net/publication/330267906\\_Soda\\_industry\\_influence\\_on\\_obesity\\_science\\_and\\_policy\\_in\\_China#fb](https://www.researchgate.net/publication/330267906_Soda_industry_influence_on_obesity_science_and_policy_in_China#fb)
- <sup>vi</sup> O'Connor, A. *Coca-Cola funds scientists who shift blame for obesity away from bad diets*. New York Times; 9 August 2015. Available at <https://well.blogs.nytimes.com/2015/08/09/coca-cola-funds-scientists-who-shift-blame-for-obesity-away-from-bad-diets/>.
- <sup>vii</sup> WHO Framework Convention on Tobacco Control. Available at <https://www.who.int/fctc/cop/about/en/>.
- <sup>viii</sup> World Health Organization. Framework Convention on Tobacco Control Article 5.3. Available at <https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf?sequence=1>
- <sup>ix</sup> United Nations General Assembly. Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of Non-Communicable Diseases. Available at [https://www.who.int/nmh/events/un\\_ncd\\_summit2011/political\\_declaration\\_en.pdf?ua=1](https://www.who.int/nmh/events/un_ncd_summit2011/political_declaration_en.pdf?ua=1)
- <sup>x</sup> World Health Organization. Framework Convention on Tobacco Control. *Guidelines for the Implementation of Article 5.3*. Available at [https://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](https://www.who.int/fctc/guidelines/article_5_3.pdf).