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EDITORIALS

Corporate involvement in public health policy is being obscured

Plain packaging policy should be developed in plain sight

Jeff Collin *professor of global health policy*, Sarah Hill *senior lecturer*

Global Public Health Unit, School of Social and Political Science, University of Edinburgh, Edinburgh EH8 9LD, UK

The government in England, having previously indicated its intention to follow Australia's lead in legislating for plain packaging for cigarettes, has reportedly abandoned this public health initiative.¹ This policy U turn was met with dismay from tobacco control advocates,² jubilation by the tobacco industry, and an increase in tobacco share prices.¹ Plans to introduce a minimum unit price for alcohol in England and Wales were also recently jettisoned after intensive lobbying by industry. Furthermore, the government has abandoned its plan to introduce a statutory register of lobbyists (signalled in its coalition agreement).³

These public health casualties of the government's midterm travails reinforce concerns about the role of the commercial sector in public health policy. Corporate involvement in public health is epitomised by a Public Health Responsibility Deal that privileges initiatives favoured by the alcohol and processed food industries.⁴ The absence of a statutory register of lobbyists underlines a continuing lack of transparency because it means that private companies can petition to take over health campaigns or reform the NHS without the public's knowledge.⁵

Doubts about the current direction of health policy are exacerbated by the opaque nature of the process through which the recent shift has occurred. The retreat over plain packaging of cigarettes reportedly followed counsel from David Cameron's adviser Lynton Crosby, a former tobacco lobbyist, to "scrape the barnacles off the boat."³ The government has yet to respond to last year's consultation on standardised packaging of tobacco products—a delay that is itself being used to justify non-disclosure of written submissions.

Surprisingly, our recent request under the Freedom of Information Act 2000 for submissions made by cigarette manufacturers and their allies was rejected, with the Department of Health citing the qualified exemption (under section 35 of the Act) for information relating to the formulation or development of government policy. Yet the Department of Health has previously disclosed more obviously sensitive documents following requests from the tobacco industry—including detailed correspondence between health officials in the United Kingdom, Australia, and New Zealand.⁶

In practice, freedom of information legislation seems to have enabled corporations to protect their interests more effectively than it has enhanced public scrutiny. Tobacco companies have repeatedly used public record acts to undermine health policy by flooding officials with requests for information, subjecting staff to "a high degree of scrutiny from an industry with unlimited legal resources."⁷ Philip Morris invoked the Freedom of Information Act in repeated attempts to extract confidential records from researchers at the University of Stirling.⁸ In addition, Japan Tobacco International based its recent high profile campaign against plain packaging on correspondence between government officials obtained through a freedom of information request.

It is ironic that minutes of a meeting in January 2013 attended by Department of Health officials and Imperial Tobacco include details of assurances that confidential data supplied by the company "would not normally need to be disclosed under [freedom of information] requests because of an exemption to protect commercial interests."⁹ In the specific context of government interactions with tobacco companies, however, obligations to ensure transparency extend beyond the minimal requirements of the Act. As a party to the World Health Organization Framework Convention on Tobacco Control (FCTC), the UK has recognised its commitments under article 5.3 "to protect the development of public health policy from the vested interests of the tobacco industry."¹⁰ Full implementation of such commitments would require the government to "ensure that any interaction with the tobacco industry on matters related to tobacco control or public health is accountable and transparent." This would also have to "be conducted in public, for example through public hearings, public notice of interactions, [and] disclosure of records of such interactions to the public."¹¹ The government's interpretation of article 5.3 has been more limited in, for example, exempting disclosure of details of discussions between the tobacco industry and HM Revenue and Customs. But even within this narrow interpretation, obligations under the framework are surely breached by the rejection of a freedom of information request for tobacco industry submissions on the grounds that policy discussions are ongoing.

Corporate opposition to minimum unit pricing for alcohol and plain cigarette packaging illustrates the inevitable tensions between the interests of the commercial sector and the protection of public health. The current UK government is by no means unique in failing to reconcile these competing interests, and there is increasing international recognition of the need to develop more coherent public health responses to unhealthy commodity industries.¹² But whatever governments decide when adjudicating between competing priorities, both public health and the wider public interest in accountability require sufficient transparency to enable clear understanding of the processes by which decisions are reached and the evidence on which they are based. By these standards, the government's failure to decide on plain packaging policy in plain sight clearly falls short of minimal expectations. To adapt the metaphor du jour, commitments to transparency are integral to good government—not mere “barnacles.”

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