

Legco Members

28th February 2012

Hong Kong's Chief Executive is revealed to have travelled and stayed on a tobacco tycoon's yacht.

Charles Ho Tsu-Kwok is the owner of Hong Kong Tobacco Company Ltd.

The Hong Kong Government chose not to increase tobacco tax in the 2012 budget whilst in possession of glaring evidence that the U19 youth age group smoking prevalence had increased in 2011 and whilst in possession of data showing the retail price of cigarettes in other first world countries far outstrips the retail price in Hong Kong.

The Financial Secretary has previously publicly acknowledged the fact that increasing tobacco excise tax is the single most important measure a Government can take to prevent youth smoking by making the cost beyond their reach.

The Financial Secretary answers to the Chief Executive on policy matters.

The Hong Kong Government is bound by the WHO's Framework Convention on Tobacco Control Treaty which has strict guidelines on Government officials' interaction with the tobacco industry.

We urge Legco members to question the Chief Executive as to why he is prima facie in breach of this major international FCTC Treaty by his actions in Macau just 16 days after the Budget was announced and whether this friendship influenced Hong Kong Government policy on tobacco control measures, or rather the total lack thereof, in the recent Budget.

Yours sincerely,

James Middleton

Chairman

http://www.who.int/fctc/guidelines/article_5_3.pdf

Purpose, scope and applicability

6. Use of the guidelines for implementation of Article 5.3 of the Convention will have an overarching impact on countries' tobacco control policies and on implementation of the Convention, **because the guidelines recognize that tobacco industry interference**, including that from the State-owned tobacco industry, **cuts across a number of tobacco control policy areas**, as stated in the Preamble of the Convention, articles referring to specific tobacco control policies and the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

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7. The purpose of these guidelines is to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective. Parties should implement measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control.

8. The aim of these guidelines is to assist Parties² in meeting their legal obligations under Article 5.3 of the Convention. The guidelines draw on the best available scientific evidence and the experience of Parties in addressing tobacco industry interference.

10. The guidelines are applicable to government officials, representatives and employees of any national, state, provincial, municipal, local or other public or semi/quasi-public institution or body within the jurisdiction of a Party, and to any person acting on their behalf. Any government branch (executive, legislative and judiciary) responsible for setting and implementing tobacco control policies and for protecting those policies against tobacco industry interests should be accountable.

11. The broad array of strategies and tactics used by the tobacco industry to interfere with the setting and implementing of tobacco control measures, such as those that Parties to the Convention are required to implement, is documented by a vast body of evidence. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

12. While the measures recommended in these guidelines should be applied by Parties as broadly as necessary, in order best to achieve the objectives of Article 5.3 of the Convention, Parties are strongly urged to implement measures beyond those recommended in these guidelines when adapting them to their specific circumstances.

Principle 1: There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.

13. The tobacco industry produces and promotes a product that has been proven scientifically to be addictive, to cause disease and death and to give rise to a variety of social ills, including increased poverty. Therefore, Parties should protect the formulation and implementation of public health policies for tobacco control from the tobacco industry to the greatest extent possible.

Principle 2: Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent.

14. Parties should ensure that any interaction with the tobacco industry on matters related to tobacco control or public health is accountable and transparent.

Principle 3: Parties should require the tobacco industry and those working to further its interests to operate and act in a manner that is accountable and transparent.

RECOMMENDATIONS

17. (2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.

(4) Avoid conflicts of interest for government officials and employees.

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18. Agreed measures for protecting public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry are listed below. **Parties are encouraged to implement measures beyond those provided for by these guidelines, and nothing in these guidelines shall prevent a Party from imposing stricter requirements that are consistent with these recommendations.**

1.2 Parties should, in addition, raise awareness about the tobacco industry's practice of using individuals, front groups and affiliated organizations to act, openly or covertly, on their behalf or to take action to further the interests of the tobacco industry.

(2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.

20. In setting and implementing public health policies with respect to tobacco control, any necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, Parties should act to prevent or correct this perception.

Recommendations

2.1 Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.

2.2 Where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently. Whenever possible, interactions should be conducted in public, for example through public hearings, public notice of interactions, disclosure of records of such interactions to the public.

(4) Avoid conflicts of interest for government officials and employees.

22. The involvement of organizations or individuals with commercial or vested interests in the tobacco industry in public health policies with respect to tobacco control is most likely to have a negative effect. Clear rules regarding conflicts of interest for government officials and employees working in tobacco control are important means for protecting such policies from interference by the tobacco industry.

23. Payments, gifts and **services**, monetary or **in-kind**, and research funding offered by the tobacco industry to government institutions, officials or employees can create conflicts of interest. Conflicting interests are created even if a promise of favourable consideration is not given in exchange, *as the potential exists for personal interest to influence official responsibilities as recognized in the International Code of Conduct for Public Officials adopted by the United Nations General Assembly and by several governmental and regional economic integration organizations.*

Recommendations

4.1 Parties should mandate a policy on the disclosure and management of conflicts of interest that applies to all persons involved in setting and implementing public health policies with respect to tobacco control, including government officials, employees, consultants and contractors.

4.2 Parties should formulate, adopt and implement a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry.

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4.10 Parties should not allow any official or employee of government or of any semi/quasi-governmental body to accept payments, gifts or services, monetary or in kind, from the tobacco industry.

5.3 Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and **individuals acting on their behalf, including lobbyists.**

SCMP - Tycoon defends Tsang's yacht trip

Lai Ying-kit
2:45pm, Feb 27, 2012

Sing Tao News chairman Charles Ho Tsu-kwok said he had done nothing wrong when he gave Chief Executive Donald Tsang Yam-kuen a lift from Macau to Hong Kong on his luxury yacht.

After confirming media reports that he gave Tsang the ride earlier this month, he said the trip did not involve any transfer of interests or “government-business collusion”. He said Tsang paid HK\$500 for the trip, and **the ride was something a person would do for a friend.**

“The boat trip was not specifically intended for Tsang. My boat would have had to go back [to Hong Kong] anyway. Would it be illegal to give a ride to a friend?” he said.

Tsang has faced accusations he may have breached bribery laws by accepting trips on yachts and jets owned by his tycoon friends. He has also come under fire over a lease on a Shenzhen penthouse flat owned by a mainland property mogul.

The chief executive earlier admitted that during one private visit to Macau **from February 17 to 19, he and his wife, Selina Tsang Pou Siu-mei, “stayed” on a yacht at a friend’s invitation.**

Tsang said he paid for the trip “at the market price” – the equivalent of a ferry trip – but critics said that price did not equate to a trip on a luxury yacht.