

State-ownership of tobacco industry: a 'fundamental conflict of interest' or a 'tremendous opportunity' for tobacco control?

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ABSTRACT

Despite state-owned tobacco companies (SOTCs) accounting for over 40% of global production, the significance of state-ownership for tobacco control strategies has received limited academic and policy attention. The complex interests associated with SOTCs present diverse challenges for tobacco control policy, particularly in implementing Article 5.3 of WHO's Framework Convention on Tobacco Control (FCTC). Based on a review of existing literature, this paper examines current challenges and potential opportunities presented by governmental participation in the tobacco industry, identifying three contrasting perspectives from academic and policy sources. The first two perspectives centre on recognising that economic interests inherent in an SOTC are in tension with a government's public health responsibilities. This conflict can be perceived as either fundamental and fixed ('intrinsic conflict') or as amenable to either exacerbation or amelioration via organisational mechanisms ('institutionally-mediated conflict')—as suggested by the contrasting examples of China and Thailand. A third, less prominent perspective (which we refer to as '*interest alignment*') suggests that it may be possible to radically alter the objectives and behaviour of SOTCs in order to advance tobacco control. Finally, we draw on this analysis to consider policy options for advancing tobacco control in countries with SOTCs. Guidance on implementation of Article 5.3 demonstrates strategic ambiguity by including elements of all three perspectives described above. We argue that legislative separation of tobacco control from SOTC oversight provides a desirable alternative to industry privatisation, and that radically realigning the goals of SOTCs to reduce tobacco consumption could make an important contribution to endgame strategies.

INTRODUCTION

In recent years, regulation of the tobacco industry has been afforded an increasingly prominent position within tobacco control, reflecting the acknowledgement that smoking is an industrial epidemic most effectively tackled by targeting the 'disease vector'.^{1,2} This is epitomised in the WHO Framework Convention on Tobacco Control (FCTC), notably in provisions under Article 5.3, to prevent industry interference in the setting and implementation of tobacco control policy.³

While there has been extensive study into the institutional behaviour of transnational tobacco companies (TTCs), comparatively little attention has been paid to state-owned tobacco companies (SOTCs), which are collectively responsible for 40% of the world's tobacco consumption.⁴ Since

its inception, this journal has published 70 articles which focus on Philip Morris—a TTC which commands 17.4% of the international cigarette market.⁴ Despite accounting for more than twice the global market share (37.1%⁴), only three articles have studied the state-owned China National Tobacco Corporation (CNTC).⁴ Existing discussions of state-ownership in the academic literature are characterised by disagreement and confusion as to the strategic significance for tobacco control, particularly in China. While China's direct economic stake in the tobacco industry has been described as "the most crucial obstacle to the implementation of the FCTC",⁵ a WHO tobacco control officer working in China views the context by which "China's tobacco industry is 100 percent state-owned" as offering a "tremendous opportunity for the government to bring it under control."⁶ Uncertainty regarding the significance of SOTCs presents a number of challenges for the future of tobacco control, particularly in relation to implementation of FCTC Article 5.3.

In this paper, we explore the strategic significance to tobacco control of state-ownership of tobacco companies based on a review of academic and policy literature. We identify three contrasting perspectives on SOTC, and the nature of the resulting conflict between economic and health objectives. We illustrate the varying experiences and institutional arrangements adopted in China and Thailand for managing competition between industry interests and public health goals within the state, and illustrate the complex challenges posed by SOTCs for successful implementation of FCTC Article 5.3. We conclude by suggesting that efforts to radically realign the goals of SOTCs to reduce tobacco consumption could make an important contribution to the development of endgame⁷ strategies.

BACKGROUND

SOTCs were historically widespread throughout Europe, Asia and the Americas, usually being established as 'fiscal monopolies' that controlled the supply of tobacco to generate reliable revenue for governments.⁸ From the 1980s, many tobacco monopolies were privatised,⁹ reflecting a wider global shift towards privatisation driven by the perceived economic inefficiency of state-owned enterprises.¹⁰ It is on this basis that international financial institutions have promoted privatisation.¹¹ A second significant wave of privatisation occurred in the 1990s following the collapse of the Soviet Union.¹²



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Within tobacco control, there are contesting opinions on the implications of privatisation. On one hand, its proponents argue that removing the responsibility of tobacco supply from government creates a policy environment more conducive to effective tobacco control.¹³ This view that privatisation is positive for tobacco control is challenged by evidence that privatised tobacco companies become more aggressive in their marketing and opposition to tobacco control policy.⁹

SOTCs are currently the principal cigarette manufacturer in 16 countries (see [table 1](#)).⁴ In most of these countries, the SOTC remains in the form of a traditional tobacco monopoly that is wholly owned and operated by the government (eg, China, Thailand, Vietnam). This model of SOTC will be the focus of this paper. Beyond countries that retain traditional tobacco monopolies, many governments have maintained or acquired interests in the tobacco industry. While Japan Tobacco (JT) operates as a private corporation, more than 30% of its shares remain held by the Japanese government.¹⁴ Elsewhere, governments or state enterprises have made substantial investments in tobacco companies; the Kenyan government has held a major stake in BAT Kenya via its social security fund,¹⁵ while 6 of the 10 top shareholders in the Indian Tobacco Company (ITC) are government-owned insurance companies.¹⁶

Alongside evidence, particularly historical, that perceived reliance on taxation revenues has impeded the development of tobacco control,¹⁷ a discussion of conflicts of interest and mechanisms to promote coherence across economic interests and health goals in tobacco control¹⁸ can be expected to have relevance far beyond countries with SOTCs.

CONFLICT OF INTEREST, STATE OWNERSHIP OF TOBACCO AND PUBLIC HEALTH: THREE PERSPECTIVES

The relationship between government's interests in SOTCs and effective tobacco control has been conceptualised in three broad ways. Two of these centre on a recognition of conflicting interests between SOTCs and public health, whether seen as fixed and fundamental (termed here *intrinsic conflict*) or as capable of being either exacerbated or ameliorated by varying organisational mechanisms (*institutionally mediated*). Finally, and prospectively in the context of endgame thinking, a third understanding suggests that the objectives of SOTCs may be altered to advance public health goals (*interest alignment*).

Intrinsic conflict

The intrinsic conflict perspective makes no significant distinction between SOTCs and the wider tobacco industry, more broadly reflecting the FCTC's recognition of a "fundamental and irreconcilable conflict" between the industry's interests and those of public health.¹⁹ State ownership is viewed here as an

impediment to effective tobacco control via which the government's economic interest in the tobacco industry is in essential conflict with its obligation to protect the health of its population by reducing tobacco consumption;^{20–22} if a government has a major stake in the tobacco industry, it can be expected to be less willing to implement policy which may reduce consumption and consequently, its tobacco-related income. This informs several analyses contending that privatisation of SOTCs would be positive for tobacco control.^{23 24}

Institutionally-mediated conflict

Elsewhere, conflict of interest is used more specifically to denote the dual responsibility of a single governmental department, or personnel, to both manage an SOTC and implement tobacco control policy.^{24–27} This interpretation implies that such conflict can be mediated by institutional arrangements. This perspective is epitomised by the appraisal of a public health professional working in China: "It's not state-ownership of the tobacco industry that is the challenge, per se. The problem in China is the same Ministry which owns the tobacco industry... is the same ministry which oversees implementation of tobacco control" (Anonymous public health professional working in China, 2014).

Interest alignment

While discussions focus primarily on conflict of interest in state-ownership of tobacco companies, a potential strategic value of SOTCs for tobacco control has occasionally been identified. The suggestion that SOTCs present a 'tremendous opportunity'⁶ for tobacco control is based on a perceived value in the state's control of tobacco supply. An isolated example of such potential being explored is perhaps provided by Vietnam's decision in 2007 to cap the quantity of tobacco leaf grown for domestic consumption.²⁰ This decision was purportedly motivated by national interests in public health, albeit alongside a concurrent large capital investment in tobacco production and a commitment to export any tobacco leaf in excess of the domestic quota.²⁰

A more ambitious view of SOTCs as providing a potential route via which to radically advance tobacco control is alluded to in some endgame thinking^{28 29} within a number of diverse proposals to rethink the role of the supply side in tobacco control.³⁰ In this context, Callard *et al*²⁸ note that publicly-owned institutions are characteristically adaptable and can be "programmed to serve any number of public policy responses." From this perspective, the failure of the CNTC "to reduce or eliminate tobacco use reflects the fact that they were not instrumentally chosen to achieve these ends, not that they were incapable of doing so."²⁸

THE CASES OF CHINA AND THAILAND

The starkly varying experiences of China and Thailand illustrate how conflicting interests can organisationally either be embedded by combining competing responsibilities or else mediated by their separation. In China, FCTC implementation is the responsibility of the Implementation Coordination Mechanism (ICM), an inter-agency organisation led by the Ministry of Industry and Information Technology (MIIT).⁵ As illustrated in [figure 1](#), the MIIT also has responsibility for the State Tobacco Monopoly Administration (STMA), which manages the China National Tobacco Corporation (CNTC), and has the remit to promote the growth of the tobacco economy.²⁴

This institutional arrangement provides that one ministerial team is responsible for both promoting the economic

Table 1 Countries in which a SOTC is principal tobacco supplier⁴

Algeria	Korea (Democratic People's Republic)
Bulgaria	Libya
Bosnia and Herzegovina	Republic of Moldova
China	Syrian Arab Republic
Cuba*	Thailand
Egypt	Tunisia
Iran (Islamic Republic of)	Vietnam
Iraq	Yemen

*Cuba is the only country in this list that has not ratified the FCTC.
FCTC, Framework Convention on Tobacco Control; SOTC, state-owned tobacco companies.

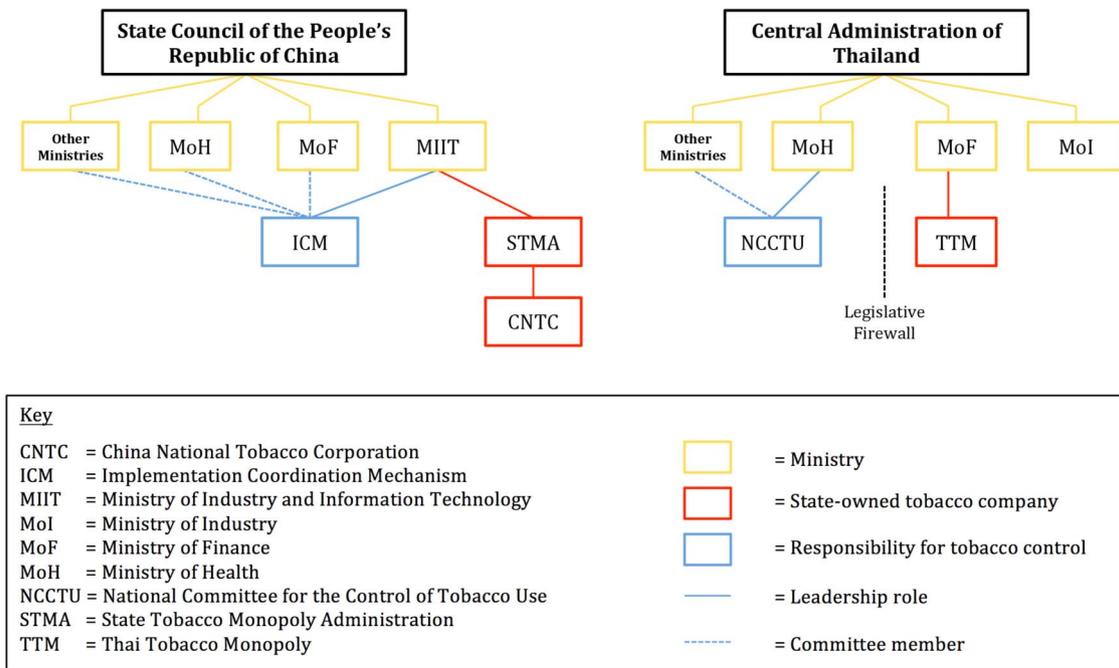


Figure 1 Institutional structures of tobacco control and SOTC management. (Developed from Vathesatogkit and Charoenca³² and Hu *et al*, 2013.²³ SOTC, state-owned tobacco companies.)

performance of the tobacco industry and ensuring the effective implementation of policies to reduce tobacco consumption.²⁴ While the Chinese Ministry of Health (MOH) is also a member of the ICM, it has been described as a “bureaucratically weak” organisation that struggles to compete with the “economic clout” of the MIIT in negotiations.³¹ China’s limited progress in implementing key tobacco control policies (including effective taxation measures, smoke-free legislation and warnings on cigarette packaging) has been attributed to such *institutionally mediated* conflict of interest.^{5 24–25}

In contrast to China, Thailand’s government has separate arrangements for governing its SOTC and tobacco control. The state-owned Thai Tobacco Monopoly (TTM) is managed by the Ministry of Finance, while responsibility for tobacco control lies with the National Committee for the Control of Tobacco Use (NCCTU)—a committee chaired by the MOH, and legally required to include “no committee member from any ministry or other agency with a potential conflict of interest.”³² The Thai government’s decision to establish a firewall between the TTM and policymakers demonstrates that, even where the government has an economic interest in tobacco sales, it is possible to institutionally isolate this role from the implementation of tobacco control policy (see [figure 1](#)). The creation of this firewall has been commended by the WHO and identified as contributing to Thailand’s world-leading status in tobacco control and FCTC implementation.^{33 34}

While the case of Thailand demonstrates that it is possible to manage conflict of interest by appropriate institutional mechanisms, it does not demonstrate any level of ‘interest alignment’. Health policy in Thailand has been protected from the interests of the SOTC, rather than the SOTC adapted to advance health or other social policy goals.

SOTCS AND FCTC ARTICLE 5.3

Article 5.3 has been described as the backbone of the FCTC, seeking to establish a distinctive model of health governance that excludes the tobacco industry from health policy on the

basis of conflicting interests.¹⁸ The complexity inherent in requiring those FCTC parties with SOTCs to protect the making of tobacco control policy from within the apparatus of the state is inevitably problematic, posing challenges for consistency at both national and international levels. The text of the FCTC makes no specific reference to SOTCs, referring generically to the tobacco industry without any differentiation by ownership.³ The guidelines for implementation of Article 5.3 published in 2008 do explicitly acknowledge SOTCs and provide specific guidance for managing their potential influence in the policy process.¹⁹ The guidelines state that “tobacco interference, including that from State-owned tobacco industry, cuts across a number of tobacco control policy areas” and make the broad recommendation that parties “[t]reat State-owned tobacco industry in the same way as any other tobacco industry.”¹⁹

This general exhortation of identical treatment is somewhat qualified in subsequent recommendations. For example, one recommendation notes that “government bodies should not have any financial interest in the tobacco industry.”, yet states that this does not apply if “they are responsible for managing a party’s ownership interest in a state-owned tobacco industry”¹⁹ Similarly, another recommendation asserts that parties “should not invest in the tobacco industry and related ventures”—except for parties with SOTCs, which must only ensure that any investment “does not prevent them from fully implementing the WHO FCTC.”¹⁹ Countries with SOTCs are also asked to “ensure that the setting and implementing of tobacco control policy are separated from overseeing or managing tobacco industry” and to ensure that representatives of SOTCs are excluded from delegations to the Conference of the Parties.¹⁹

The WHO’s “Technical resource for country implementation of the WHO FCTC Article 5.3”³⁵ has recently elaborated substantially on the guidance provided to countries with SOTCs. A table of eight recommendations, specifically for countries with SOTCs (see [table 2](#)), illustrates significant strategic ambiguity by reflecting elements of each of the three perspectives outlined above.³⁵ The core perspective can be seen as one of

Table 2 Proposed framework for implementation of Article 5.3 Guidelines in countries with SOTCs, embodying varying perspectives on conflict of interest (adapted from WHO, 2012)

"The following approaches should be considered by countries to implement the Article 5.3 Guidelines as they relate to the protection of governmental decision-making, policymaking and implementation from tobacco industry and similar conflicting interests."	Perspective on conflict of interest
1. Ensure that separate State agencies are made responsible (preferably through legislation, with a clear division of roles) for each of the following: ▶ Oversight, management or promotion of the commercial goals of government aimed at ensuring a return on the State-owned tobacco industry ▶ Regulation of industry and in particular, tobacco control	Institutionally mediated
2. Consider implementing, through legislation, parameters within which State-owned tobacco companies must act, for example, the ability of the government, via the agency that oversees the commercial mandate of State-owned tobacco companies ("the regulator"), to impose a requirement to consider social and environmental consequences and to take certain steps to address those consequences.	Potential for partial interest alignment
3. Ensure that any ministerial directions to SOTC are declared to a representative body (eg, Parliament) and are otherwise made public.	Intrinsic conflict
4. Establish clear reporting requirements by all SOTCs to the regulator.	Institutionally mediated
5. Consider means by which freedom-of-information legislation could enable non-governmental organisations and civil society to secure further information (with appropriate safeguards for commercially-sensitive information).	Institutionally mediated
6. Ensure that the regulator provides an annual report to a representative body on its directions and guidance to those companies and all policies relating to the expectations placed on, and the monitoring of, those companies.	Institutionally mediated
7. Exclude the regulator from participation in any committees overseeing the implementation of the WHO FCTC or the development of policy and legislation on tobacco control, and from participation in delegations to the Conference of the Parties of the WHO FCTC or other meetings related to the treaty.	Institutionally mediated
8. Otherwise ensure that all requirements are applied to all SOTCs in the same way as they are applied to private industry interests.	Intrinsic conflict

FCTC, Framework Convention on Tobacco Control; SOTC, state-owned tobacco companies.

intrinsic conflict (as in the broad concluding recommendation 8) and thereby consistent with that of the FCTC text. This is, however, significantly qualified by the identification of mechanisms or procedures by which conflict can be institutionally mediated in the majority of recommendations (see, eg, 1 and 6).

Recommendation 2 is particularly interesting, encouraging introduction of legislation requiring SOTCs to "consider social and environmental consequences and to take certain steps to address those consequences."³⁵ This suggests recognition of some scope for aligning SOTC goals with broader social policy objectives, seeming to acknowledge a potential strategic advantage in the ability of SOTCs to be 'programmed' to serve diverse policy purposes.²⁸

IMPLICATIONS FOR THE FUTURE OF TOBACCO CONTROL

The three contrasting perspectives outlined here suggest varying directions for the development of tobacco control policy and practice in countries with SOTCs. If conflict of interest is considered 'intrinsic' to state-ownership of the tobacco industry, advocating privatisation of SOTCs may be perceived as the most appropriate policy response in countries with SOTCs.²³⁻²⁴ The substantial evidence that past SOTC privatisations have resulted in increased tobacco marketing, lower cigarette prices, and increased tobacco consumption⁹ argues compellingly against such a response.

Legislative separation of functions and responsibilities to institutionally manage conflicting interests within the state may, therefore, appear the most feasible and pragmatic alternative to privatisation. The experience of Thailand can be instructive in providing a simple potential model via which other countries with SOTCs can seek to isolate tobacco control from industry interference. Ensuring that such institutional measures do actually work to effectively protect tobacco control from industry interference by SOTCs constitutes an on-going challenge for parties to the FCTC. While there is a broad requirement for further research on the implementation of article 5.3, there is a particular need to examine strategies by which the principles and recommendations of Article 5.3 can be most effectively implemented in countries with SOTCs. As conflicts are not

restricted to countries with traditional tobacco monopolies, future research should also consider how governments with other forms of economic interest in tobacco (eg, as a recipient of tobacco tax revenue or as a shareholder in a private tobacco company) may manage these in a way that minimises any conflict of interest with health.

Beyond mechanisms to institutionally manage conflicting interests, there would appear to be merit in exploring the scope to better align the interests of SOTCs with those of health and social policy. Rather than merely viewing SOTCs as less effective vectors of the tobacco epidemic and therefore, as marginally preferable to transnational corporations, state ownership may provide distinct opportunities to move towards context-specific tobacco control endgames. Learning lessons from the experience of alcohol retail monopolies may prove instructive in developing proposals for such reprogramming of SOTCs. Nordic alcohol monopolies, for example, have been described as having a "common and overriding objective ... to reduce individual and social harm as a result of alcohol consumption",³⁶ and notwithstanding major recent changes to their structure and function, Finland, Iceland, Norway and Sweden still have the strongest alcohol policy regimes in Europe.³⁷

While it is understandable that international tobacco control has focused primarily on seeking to regulate the conduct and impact of transnational tobacco corporations, the comparative dearth of academic literature focused on SOTCs is indicative of a broader neglect of their strategic significance and potential. TTCs are a significant obstacle to any strategy of interest alignment and complicated regulatory mechanisms have been proposed as a means to incentivise private tobacco industry to reduce, rather than increase, tobacco use.^{29 38 39} In comparison, SOTCs are adaptable entities that can act in whatever way political will dictates. There is a clear need for investigation of specific mechanisms by which it may be possible to reprogramme SOTCs to act in the interests of health. This may include exploring scope for 'sun-setting' policies whereby governments instruct SOTCs to actively work towards their obsolescence, informing endgame discussions of mechanisms by which tobacco products may be gradually withdrawn.^{40 41}

If governments and civil society in countries with SOTCs could generate sufficient political commitment to radically refocus priorities and incentive structures, innovative reprogramming could make an important contribution to country-specific endgame strategies. Though the idea of remaking a significant component of the industrial vector of the global tobacco epidemic is both uncomfortable and intimidating, the rewards for successfully doing so could be enormous. The Bill and Melinda Gates Foundation has long supported the ‘Grand Challenges in Global Health Initiative’ with the aim to “overcome persistent bottlenecks in creating new tools that can radically improve health in the developing world.”⁴² There is no more persistent bottleneck to such progress than the tobacco industry, and there is arguably no opportunity in any sphere of global health that could compare with that of aligning the interests of the China National Tobacco Corporation to advance those of tobacco control.

What this paper adds

- ▶ Despite accounting for over 40% of global production, state-owned tobacco companies (SOTCs) have received comparatively limited attention in both academic and policy debates.
- ▶ State ownership poses particular challenges for Article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC), which requires Parties to protect tobacco control policy from the vested interests of the industry.
- ▶ This paper identifies three broad ways of conceptualising the relationship between state control of tobacco production and the objectives of tobacco control—with implications for how a tobacco control agenda should be advanced. Where state ownership is viewed as entailing a fundamental conflict with tobacco control (*intrinsic conflict*), significant future progress is seen as contingent on withdrawal of the state from the tobacco industry. An alternative perspective sees scope for effectively managing tensions between state-ownership and public health via institutional arrangements that isolate SOTCs from health policy (*institutionally-mediated conflict*). A third approach considers the possibility of radically reprogramming the objectives of SOTCs so that they might advance tobacco control goals (*interest alignment*).
- ▶ A more detailed understanding of SOTCs and their complex relationship with tobacco control may offer innovative opportunities for advancing a tobacco-control agenda, contributing to discussions about alternative routes to an end-game.

Correction notice This article has been corrected since it was published Online First. The phrase ‘significance of’ has been corrected to ‘significance for’ in the sentence “Existing discussions of state-ownership in the academic literature are characterised by disagreement and confusion as to the strategic significance for tobacco control, particularly in China.”

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