

REGULATION OF THE MINISTER OF HEALTH OF
THE REPUBLIC OF INDONESIA
NUMBER 50 YEAR 2016
ON
GUIDELINE FOR MANAGING CONFLICT OF INTEREST WITH
THE TOBACCO INDUSTRY IN THE MINISTRY OF HEALTH

BY THE GRACE OF THE ONE AND ONLY GOD

MINISTER OF HEALTH OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that the tobacco industry is an industry that can exert influence on policies that control the harmful effects of tobacco products to health, and as such may potentially create conflict of interest between public health and the commercial interests of the tobacco industry;
 - b. that to maintain the integrity of civil servants that values and upholds the principle of good governance within the Ministry of Health in situations of conflict of interest with the tobacco industry, guidance for managing conflict of interest with the tobacco industry is hence needed;
 - c. that in accordance with considerations set forth in points (a) and (b) above, a Regulation issued by the Minister of Health must be established on Guideline for Managing Conflict of Interest with the Tobacco Industry in the Ministry of Health;

- Recalling : 1. Law No. 28/1999 on State Administration that is Clean and Free from Corruption, Collusion and Nepotism (State Gazette of the Republic of Indonesia Year 1999 No. 75, Supplement to the State Gazette of the Republic of Indonesia No. 3851);
2. Law No. 36/2009 on Health (State Gazette of the Republic of Indonesia Year 2009 No. 144, Supplement to the State Gazette of the Republic of Indonesia No. 5063);
3. Law No. 5/2014 on Civil Servants (State Gazette of the Republic of Indonesia Year 2014 No. 6, Supplement to the State Gazette of the Republic of Indonesia No. 5494);
4. Government Regulation No. 53/2010 on the Discipline of Civil Servants (State Gazette of the Republic of Indonesia Year 2010 No. 74, Supplement to the State Gazette of the Republic of Indonesia No. 5135);
5. Government Regulation No. 109/2012 on Safeguards against Addictive Substances in the Form of Tobacco Products for Health (State Gazette of the Republic of Indonesia Year 2012 No. 278, Supplement to the State Gazette of the Republic of Indonesia No. 5380);
6. Regulation of the Minister of Health No. 008/2012 on the Code of Ethics of Civil Servants in the Ministry of Health (State Gazette of the Republic of Indonesia Year 2012 No. 345);
7. Regulation of the Minister of State Administrative and Bureaucratic Reform No. 37/2012 on Basic Guideline for Managing Conflict of Interest (State Gazette of the Republic of Indonesia Year 2013 No. 65);
8. Regulation of the Minister of Health No. 40/2013 on the Road Map on the Impact of Cigarette Consumption on Health (State Gazette of the Republic of Indonesia Year 2013 No. 736);
9. Regulation of the Minister of Health No. 14/2014 on Controlling Gratification in the Ministry of Health

(State Gazette of the Republic of Indonesia Year 2014 No. 416);

10. Regulation of the Minister of Health No. 64/2015 on the Organization and Work Procedure of the Ministry of Health (State Gazette of the Republic of Indonesia Year 2015 No. 1508);

HEREBY DECIDES:

To enact : REGULATION OF THE MINISTER OF HEALTH ON GUIDELINE FOR MANAGING CONFLICT OF INTEREST WITH THE TOBACCO INDUSTRY IN THE MINISTRY OF HEALTH.

Article 1

The Guideline for Managing Conflict of Interest with the Tobacco Industry in the Ministry of Health shall guide state administrators and civil servants within the Ministry of Health, both at the central and local level, in mapping, preventing and overcoming situations of conflict of interest associated with policies on the control of tobacco products for health, including the control of the harmful effects of tobacco products on health.

Article 2

The types of conflict of interest with the tobacco industry include the following:

- a. unnecessary interaction with the tobacco industry or its interest groups;
- b. partnership with the tobacco industry or its interest groups;
- c. contributions from the tobacco industry or its interest groups;
- d. gratification from the tobacco industry or its interest groups; and
- e. granting privileges to the tobacco industry.

Article 3

The Guideline for Managing Conflict of Interest with the Tobacco Industry in the Ministry of Health covers:

- a. prevention of conflict of interest with the tobacco industry or its interest groups; and
- b. the mechanism for managing conflict of interest with the tobacco industry or its interest groups.

Article 4

The Guideline for Managing Conflict of Interest with the Tobacco Industry in the Ministry of Health as enclosed in the Annex forms an inseparable part of this Ministerial Regulation.

Article 5

- (1) Every leader of a working unit within the Ministry of Health must monitor and evaluate potential conflict of interest with the tobacco industry or its interest groups in their respective working units, in which its prevention and handling shall be done as governed in this Ministerial Regulation.
- (2) In monitoring and evaluation as set forth in clause (1), every state administrator and civil servant may be liable to sanction in accordance with prevailing laws and regulations.

Article 6

This Ministerial Regulation shall enter into force on the date of its promulgation.

For the purpose that every person is so informed, this Ministerial Regulation shall be promulgated by having it published in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
on 5 October 2016

MINISTER OF HEALTH
REPUBLIK INDONESIA,

signature

NILA FARID MOELOEK

Promulgated in Jakarta
on 26 October 2016

DIRECTOR GENERAL
OF LEGISLATION
MINISTRY OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA,

signature

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2016 NUMBER
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ANNEX
REGULATION OF THE MINISTER OF
HEALTH
REPUBLIC OF INDONESIA
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GUIDELINE FOR MANAGING CONFLICT INTEREST WITH THE TOBACCO
INDUSTRY IN THE MINISTRY OF HEALTH

CHAPTER I
INTRODUCTION

A. Background

The Ministry of Health of the Republic of Indonesia has consistently and continuously made efforts to reform itself in a view to create a bureaucracy that progresses toward good governance that embraces the values of Anti-Corruption Education and Culture (PBAK) for the organization, by implementing it thoroughly and collectively for the purpose of adding value to the organization. To preserve the said PBAK values, standard rules must be established to specifically guide the handling of conflict of interest in the discharging of duties and functions, and in interacting with stakeholders. These guidelines are necessary to avoid preconceptions that may arise from interactions among state administrators and civil servants within the Ministry of Health, and with other external parties.

One such party in which conflict of interest shall interfere with policies for protecting public health and tobacco control efforts is the tobacco industry. Conflict of interest with the tobacco industry generates impacts that differ from conflict of interest with other industries or parties due to the specific characteristics of the industry's products. Policies related to tobacco control that have been formulated

with interference from the tobacco industry have widespread impact, not only causing bureaucratic demoralization and state losses, but also generating more extensive repercussions to society, in the form of social damage, ailments and death.

In practical terms, the lack of understanding on conflict of interest in general and with the tobacco industry in particular among state administrators and civil servants may lead to multiple interpretations that may even have negative tendencies. The Ministry of Health therefore recognizes the importance of managing potential conflict of interest with the tobacco industry including its interest groups, for its organizational units as well as state administrators and civil servants within the Ministry.

With clearly defined rules on managing conflict of interest, good governance will be assured, grounded in ethical interactions within the Ministry of Health and with other stakeholders. In view of this, Guidance is needed for Managing Conflict of Interest with the Tobacco Industry in the Ministry of Health that is consistent with the organizational values of the Ministry.

B. Objective

This Guideline aims to:

1. Create transparent and accountable work performance in dealing with the tobacco industry or its interest groups.
2. Create high-quality public service culture, free from conflict of interest, and clean from corruption, collusion and nepotism.
3. Uphold the integrity of civil servants, and creating a clean and credible government.

C. Definitions

1. Tobacco Product is a product that in whole or in part is made of tobacco leaves as its raw material that is processed for use by way of burning, smoking, and inhaling or chewing.
2. Tobacco Industry is a company, organization, body, association, and individual working for and/or on behalf of the tobacco industry that includes but not limited to cigarette companies, large traders, distributors, tobacco leaf/product importers, retailers, frontline groups and other individuals/organizations including but

not limited to legal experts/advocates, scientists and lobbyists working in the interest of the tobacco industry.

3. Tobacco Industry Interest Group is an organization having a direct or indirect agenda that represents or is related to tobacco industry interests which can influence tobacco control policies.
4. Conflict of Interest is a situation in which a state administrator and civil servant have actual or potential personal interest in the exercising of power which may influence the quality of his or her decision and/or action.
5. Gratification is the giving of money, goods, discount, commission, interest-free loan, travel ticket, accommodation facility, sightseeing trip, free medical treatment and other facilities received inside or outside of the country, either through the use of electronic means or not, that are associated with position or power.

CHAPTER II MANAGING CONFLICT OF INTEREST

A. Types of Conflict of Interest

1. Unnecessary Interaction with the Tobacco Industry or Its Interest Groups

The type of conflict of interest considered to be unnecessary interaction with the tobacco industry or its interest groups is meeting personally with the tobacco industry or its interest groups and taking their views and opinions on tobacco control policy, program and advocacy into consideration.

2. Partnership with the Tobacco Industry or its Interest Groups

The types of conflict of interest considered as partnership with the tobacco industry or its interest groups are as follows:

- a. Directly or indirectly entering into partnership or agreement, binding or non-binding, with the tobacco industry or its interest groups.
- b. Supporting tobacco industry events such as organizing, sponsoring or participating in performances, public education, or initiatives that tend to build the company's image, either directly or indirectly, in a bid to promote tobacco use.

3. Contributions from the Tobacco Industry or its Interest Groups

The types of conflict of interest considered as contribution from the tobacco industry or its interest groups are the acceptance of ideas and/or input in the form of position papers, articles, research, voluntary code of ethics, or policy instruments put forward by the tobacco industry or its interest groups that will influence tobacco control policies.

4. Gratification from the Tobacco Industry and its Interest Groups

The types of conflict of interest considered as gratification from the tobacco industry or its interest groups are:

- a. accepting gratification from the tobacco industry or its interest groups by acting on their own or on behalf of another party.
- b. accepting a gift or gaining benefit in whatever form from the tobacco industry or its interest groups or from activities portrayed as corporate social responsibility (CSR).

5. Granting Privileges to the Tobacco Industry

The type of conflict of interest considered as giving privilege to the tobacco industry includes the privilege, either directly or indirectly, to build or run their businesses, among others, by awarding privileges or advantages to the tobacco industry.

B. Preventing Conflict of Interest

1. Basic Principles

a. To avoid conflict of interest in state administrators and civil servants within the Ministry of Health, the following preventive measures are implemented in working units having tobacco control duties and functions:

1) Providing information to and building the awareness of officers/employees within the Ministry of Health at the central and local level. Such information should relate to the abnormality of tobacco products and the tobacco industry, and covers:

a) The addictive nature and harmful consequences of tobacco products.

b) Tobacco industry practices that make use of individuals, frontline groups and affiliated organizations to act, either openly or secretly, on their behalf or to undertake further action in the interest of the tobacco industry. Tobacco industry interference is the overall strategy and tactic employed by the tobacco industry or its interest group for the purpose of eliminating, obstructing, undermining, and possibly reducing the impact of efforts made to develop and implement tobacco control policies/programs.

c) Corporate social responsibility (CSR) activities of the tobacco industry are geared more towards advertising or promoting their products, in order to hamper the regulation and implementation of public health policies. Tobacco industry corporate social responsibility is an inherent contradiction because the primary goal of the tobacco industry is in conflict

with the purpose of public health policies related to tobacco control.

- 2) Raising awareness on the guideline for managing conflict of interest.
 - b. Every state administrator and civil servant shall comply with the employee code of ethics in accordance with existing laws and regulations, and shall sign an integrity pact, including on the prevention of conflict of interest with the tobacco industry or its interest groups.
 - c. Any state administrator and civil servant found and/or proven to have conflict of interest with the tobacco industry or its interest group is not to be assigned to a working unit with tobacco control duties and functions.
2. Mechanism for Preventing Conflict of Interest
- a. Unnecessary Interaction with the Tobacco Industry or its Interest Groups
 - 1) Interactions with the tobacco industry or its interest groups are only when necessary, to effectively regulate the tobacco industry and tobacco products.
 - 2) When interaction with the tobacco industry or its interest groups is deemed necessary, it must be done in a transparent manner in order to avoid any actual, perceived or potential partnership or cooperation as a result of or due to the interaction.
 - 3) When interaction with the tobacco industry or its interest groups is deemed necessary, it must be done as follows:
 - a) Any interaction proposed by the tobacco industry or its interest groups must be stated and approved in writing by the leader.
 - b) An interaction must take place in official events and located within the office of the Ministry of Health, and well documented and reported to the leader. Documentation may be in the form of audio recordings, visuals or in writing. Such documentation may not represent a perception that contradicts the original purpose of the interaction.

- c) Any form of interaction must be done by a state administrator/civil servant whose rank should at least be Third Echelon.
- b. Partnership, Contribution and Gratification from the Tobacco Industry and its Interest Groups
 - 1) State administrators and civil servants must avoid partnerships and unnecessary interactions with the tobacco industry or its interest groups.
 - 2) State administrators and civil servants must document and report on any plan for partnership or corporate social responsibility (CSR) activity which the leader must be informed of.

c. Granting of Privileges to the Tobacco Industry

Government employees/officers must review every regulation and or practice that directly or indirectly grants privilege or directly or indirectly benefits the tobacco industry in building or running their businesses, and immediately take the necessary measures and/or provide the recommendation to revise and bring an end to the regulation and/or practice within the shortest time possible.

C. Mechanism for Managing Conflict of Interest

1. Any unnecessary interaction with the tobacco industry or its interest groups, corporate social responsibility (CSR), partnership, contribution, and awarding of privilege as laid out in this guidance, undertaken by a state administrator or civil servant, must be reported by the working unit in question or any member of the public having knowledge of this through the said working unit, by no later than 5 (five) working days to the working unit with tobacco control duties and functions and the inspectorate general in regard to the government's internal control system.
2. In the event that a conflict of interest arises, the employee/officer in question must officially be reported to the direct supervisor within 5 (five) working days and the necessary sanction imposed in accordance with existing laws and regulations, and making sure that the said employee/officer ceases any partnership, agreement

or participation, or return any gift from the tobacco industry or its interest groups.

3. If an employee/officer has knowledge of an activity or program which is portrayed as corporate social responsibility (CSR), he or she has the obligation to immediately document and report on the matter within 5 (five) working days to the working unit with tobacco control duties and functions from which the working unit shall subsequently take the required action to avoid obstructing efforts to develop and implement tobacco control policies.
4. The employee/officer involved in an activity or program portrayed as corporate social responsibility (CSR) must clear and erase the perception or impression of giving support or participating in the tobacco industry through activities which the industry labels as corporate social responsibility. The employee/officer in question must also call off any cooperation with the tobacco industry or withdraw any support to the tobacco industry through activities which the industry labels as corporate social responsibility.

CHAPTER III
CLOSING

The Guideline for Managing Conflict of Interest with the Tobacco Industry in the Ministry of Health shall serve as reference for all state administrators and civil servants within the Ministry of Health, at the central and local level, in mapping, preventing, and overcoming conflict of interest with the tobacco industry and its interest groups, and to implement it consistently and wholeheartedly in order to effectively deal with conflicts of interest.

The subsequent step is to encourage the leaders of all working units to act upon this guidance on managing conflict of interest with a view to improve the quality of services in the respective working unit towards achieving good governance.

MINISTER OF HEALTH
REPUBLIC OF INDONESIA,

NILA FARID MOELOEK