

SELF-REGULATION

How the tobacco industry regulates itself to avoid regulation

SUMMARY

Corporate self-regulation refers to the voluntary rules and practices that companies adopt to align their activities with ethical norms and societal expectations—without direct government enforcement.

A strategic tool

Faced with the prospect of restrictions on its promotional activities, the tobacco industry has resorted to an effective tool: self-regulation. The major tobacco companies claim on their websites that they practise “responsible marketing”. What may seem commendable is in fact a strategic tool designed to avoid the adoption of effective advertising regulations and was never intended to protect the population.

Useless for public health, effective for the industry

Although long discredited in many countries, self-regulation of advertising remains in place in Switzerland, where it has been fulfilling the same primary function for the last 40 years: protecting the commercial and political interests of cigarette manufacturers.

The Swiss agreement

In our country, self-regulation took on a particular dimension in 1992, on the eve of a vote on the ban on tobacco and alcohol advertising. The Swiss Cigarette Manufacturers Association (now Swiss Cigarette, comprising British American Tobacco, Japan Tobacco International and Philip Morris) published a marketing agreement with the Swiss Commission for Fairness, the advertising industry's self-regulatory body. Philip Morris's internal archives reveal the real motivations behind this agreement:

- “To convince parliamentarians that it is not necessary to draft a counter-proposal.”
- “Encourage voters to reject the initiative in 1993 on the grounds that it is unnecessary.”

The strategy paid off: the initiatives were rejected, and the agreement was renewed several times until its current version, adopted in 2018.

An agreement without substance

This agreement, presented as a “voluntary commitment”, suffers from multiple flaws:

- It is very loosely binding and contains purely symbolic provisions.
- It only covers tobacco products in the narrow sense (cigarettes, rolling tobacco, cigarillos, cigars and pipe tobacco) and does not apply to heated tobacco products, electronic cigarettes and other nicotine-containing products.
- Its penalty system is paradoxical: the offending company must pay a fine... to Swiss Cigarette, i.e. to the very association that defends its interests.
- The system is opaque as verdicts are not made public.

The agreement gives the illusion of a regulatory mechanism where none exists. Some politicians have been fooled by this illusion.

The “new” products

Today, cigarette manufacturers are seeking more favourable conditions to promote their “reduced-risk” products. To project an image of goodwill, they have extended another self-regulation to cover specifically these products. This code has no enforcement mechanism and is equally void of substance. It pursues the same objective: to delay or weaken regulatory action and protect the commercial interest of the industry.