

Tobacco industry corporate social responsibility activities amid COVID-19 pandemic in India

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In India, nearly 29% of adults (over 42% of men and 14% of women) aged 15 or above use tobacco daily or occasionally.¹ Out of 100 million smokers, nearly 40 million smoke cigarettes. ITC (British American Tobacco's India affiliate) dominates the Indian-manufactured cigarette market with 77% market share,² while Godfrey Phillips India (Phillip Morris International's India affiliate) controls 13% of the market.³ In terms of volume, however, bidi (also beedi, a forest tree leaf hand-rolled indigenous cigarillo using sun-cured flaked tobacco) dominates the smoking landscape. In 2014, it is estimated that nearly 550 billion⁴ bidis were made by women and children in the poorest parts of India.⁵

In addition, nearly 200 million adults use smokeless tobacco (SLT).¹ SLT is the most widely consumed tobacco product in the country that is homemade, largely unregulated, untaxed and sold locally. About 30% of the SLT market consists of commercially manufactured products, where Dharampal Satyapal Group (DS Group) enjoys a large market share.⁶

Historically, the Indian tobacco industry has spent large sums in aggressively marketing and advertising its products.⁷ With the coming into force of the Cigarettes and Other Tobacco Products Act, 2003 (COTPA), however, all forms of direct and indirect tobacco advertising were prohibited in India.⁸ In particular, section 5, clause 3, subclause (b) of COTPA prescribed that:

No person, shall, under a contract or otherwise promote or agree to promote the use or consumption of...(b) any trade mark or brand name of cigarettes or any other tobacco product in exchange for a sponsorship, gift, prize or scholarship given or agreed to be given by another person.⁸

Article 13 of the WHO Framework Convention on Tobacco Control (WHO FCTC)⁹ considers corporate social responsibility (CSR) activities to be a form of tobacco advertising and recommends its prohibition by all Parties to the Treaty.¹⁰ In the corporate world, CSR is understood as a management concept through which companies achieve a balance of economic, environmental and social imperatives when addressing the expectations of shareholders and stakeholders.¹¹ WHO considers the tobacco industry and corporate responsibility as inherently contradictory¹² because the core functions of these companies are in direct conflict with public health.¹³ However, while COTPA completely prohibited any form of direct and indirect advertisement, the Government of India revised the country's Companies Act in 2013¹⁴ and required

all large companies to spend at least 2% of their average net profit in the previous 3 years on CSR activities permissible under the Schedule VII of the Act (online supplemental table S1).¹⁵

This conflict between the Companies Act and the provisions of COTPA and the FCTC's recommended ban on tobacco industry CSR activities was presented in 2016 before the Madras High Court by the Tamil Nadu Peoples' Forum for Tobacco Control, a Chennai-based tobacco control group.¹⁶ In response, the Ministry of Health and Family Welfare constituted a nine-member interministerial panel to devise a mechanism to prevent the tobacco industry from deriving promotional benefits from their Companies Act-required CSR activities.¹⁷ On 16 May 2016, the Ministry of Corporate Affairs issued a circular clarifying that all companies, while undertaking CSR activities, shall not contravene any existing laws including COTPA.¹⁸ This effectively meant that all companies while doing CSR must conform to the ban on direct and indirect advertising, promotion and sponsorship of tobacco products.

Funding disaster relief is one of the important aspects of tobacco industry's CSR efforts, including during droughts,¹⁹ floods,²⁰ cyclone,²¹ earthquake²² and tsunami²² situations. On 30 January 2020, Kerala became the first state with the first COVID-19-positive case. As of 26 November 2020, COVID-19 has killed 141 772 individuals in India, while infecting 9 625 599 others.²³ This Industry Watch illustrates how tobacco companies have exploited the COVID-19 pandemic to build their socially responsible corporate image and discusses how this use of CSR threatens tobacco control progress made in India.^{24 25}

An online search of national and regional newspapers, including online news outlets, using tobacco company names yielded 53 news reports of CSR activities undertaken by Indian tobacco companies between March 2020 and June 2020 (online supplemental table S2). Based on the specific activities and events from the search results, we further looked at social media accounts related to the key names and events for any mention of the CSR activities by such tobacco companies.

Overall the Indian tobacco industry committed about US\$36.7 million in donations to various government funds, including the 'Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund' (PM CARES Fund) of the Government of India and the Chief Minister's Relief Fund of different state governments in the country (table 1).



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Table 1 CSR activities by tobacco industry in India during COVID-19

Name of company	Amount (US\$, in 000)	Type of support	Partners
Donation to PM CARES Fund			
ITC	13212	PM CARES Fund	Government of India
Dharampal Satyapal	2642	PM CARES Fund and other organisation fighting against coronavirus	Government of India; Gurudwara Prabandhak Samiti
Donation to Chief Minister's Relief Fund			
Deccan Tobacco Company	33	Andhra Pradesh Chief Minister's Relief Fund	Government of Andhra Pradesh
ITC	264	Karnataka Chief Minister's Relief Fund	Government of Karnataka
ITC	264	Tamil Nadu Chief Minister's Relief Fund	Government of Tamil Nadu
ITC	264	Maharashtra Chief Minister's Relief Fund	Government of Maharashtra
VST Industries	132	Telangana Chief Minister's Relief Fund	Government of Telangana
Donation to health and hospital administration			
Gujarat Tobacco Merchants Association	24	Portable ventilator machines	Kheda Government Civil Hospital, Gujarat
ITC	In kind	Support Bharat Heavy Electricals (BHEL) to operationalise a 30-bed temporary centre for COVID-19 in Haridwar, Uttarakhand	BHEL is a public sector undertaking
Donation to administration			
Godfrey Phillips India	In kind	Masks for front-line COVID-19 workers in Srinagar	Srinagar District Administration
Godfrey Phillips India	In kind	Personal protective equipment to Inspector General of Police Kashmir for use among the police staff	Jammu and Kashmir Police Department
Awareness targeting kids and women			
ITC	In kind	Awareness among kids about the five steps to prevent the spread of COVID-19 brings out the 'Do the 5' song	Green Gold Animations, the creator of cartoon series <i>Chhota Bheem</i>
ITC	In kind	Awareness on handwashing with the state government of Kerala to help 'Break the Chain'	Government of Kerala
ITC	In kind	Salutes mothers with 'Stay Strong Moms' campaign through virtual music concert	Leading singers of the Indian film industry
Essential commodities and food items			
ITC	In kind	Food and hygiene essentials across 17 states of India	State, district, local administration, 'Child Rights and You (CRY), SOS Children's Villages India and other NGOs
ITC	In kind	Distribution of milk for children in Kolkata	Save the Children India, The Hope Foundation India and SOS Children's Villages of India
ITC	In kind	Distribution of free meals and groceries	Government of Telangana
ITC	In kind	Help customers order grocery essentials	Domino's, Zomato, Dunzo, Swiggy, Apna Complex, MyGate, NoBroker and Azgo
ITC	In kind	Juices and soaps for the police department in Srinagar	Jammu and Kashmir Police Department
ITC	In kind	17000 refreshment kits containing fruit juice, milkshake and chocolates for corona warriors in Bengaluru	Municipal Corporation of Greater Bengaluru
Self-administered contingency fund			
ITC	19817	COVID-19 contingency fund for vulnerable sections of society	State, district and local administration besides NGOs

CSR, corporate social responsibility; NGOs, non-governmental organisations; PM CARES Fund, Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund.

ITC was the biggest cash and in kind CSR contributor during this period. These CSR contributions by various tobacco companies were publicised in leading newspapers and mentioned on high-profile Twitter accounts, including from the Twitter handle of the Prime Minister of India²⁶ and his Cabinet colleague and the Minister of Railways and of Commerce and Industry.²⁷ The Chief Ministers of Karnataka²⁸ and Maharashtra²⁹ also took to the microblogging site to thank ITC (online supplemental table S2). ITC also partnered with other government agencies and local administration, including the Bharat Heavy Electricals, a public sector undertaking, in the operation of a temporary health centre for COVID-19 and distributed refreshments to healthcare workers through Bruhat Bengaluru Mahanagara Palike (Municipal Corporation). The commissioner of the corporation used Twitter to thank ITC.³⁰ Other cigarette and SLT companies also donated in cash and in kind to district administration,³¹ local hospital administration,³² PM CARES and Chief Minister's Relief Funds.³³ All tobacco companies indulged in CSR activities and extensively engaged with all stakeholders, including the Government of India, state governments, non-governmental

organisations, celebrities and trade groups, as part of the CSR collaboration during COVID-19 (table 1).^{34,35}

While such contributions may have been welcome during a crisis, tobacco companies benefited by using the CSR to enhance their corporate brand in violation of COTPA. All tobacco companies used corporate trademarks in such CSR activities, a corporate branding also used on their tobacco products; for example, ITC uses the 'ITC' trademark on all tobacco and non-tobacco products, and similarly 'Godfrey Phillips' and 'DS Group' use the same trademark across all types of products.

These instances of CSR activities by Indian tobacco companies, especially the use of companies' trademarks, not only constitute breaches of COTPA section 5 (3)(b), but also Article 13 of the WHO FCTC and the guidelines adopted for its implementation. In addition, these industry CSR-related interactions with government figures also contravene the intent of the WHO FCTC Article 5.3 and its guidelines, which have been adopted and implemented in 13 Indian states that prohibit such interactions (online supplemental table S3).³⁶ Noting the CSR activities by the Indian tobacco companies, the India Tobacco

Industry Interference Index 2020 reported that the industry has continued to exert its influence on the government through sponsorship and CSR.²⁵

In the interest of public health, mandatory CSR activities, under the Companies Act, should be banned for tobacco companies and instead an equivalent amount should be collected as a direct government levy of 2% on the net profits of tobacco companies. This funding could then be distributed by the state to be allocated for tobacco control and other public health purposes (potentially also including COVID-19 relief) as done by Thailand³⁷ and Victoria in Australia.³⁸ Such an approach, which eliminates the tobacco industry's choice over how such monies are spent, reduces the CSR-related opportunities for corporate image enhancement and minimises CSR-related policy influence. It would also be consistent with India's obligations under both Article 5.3 and Article 13 of the WHO FCTC and its commitments made to protect people from harms of tobacco under COTPA. Policymakers should not permit tobacco companies to continue exploiting public health emergencies for corporate gain.

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