

# Conflict of Interest: A Case for Legislation

**AACI Update-1**

**April 2011**

**Special**

- Supreme court slams the door on vested interests
- Tobacco Treaty Dealt with COI: Sign of Change!

**Conflict of interest  
BREEDS  
CORRUPTION**



## *Protecting people against vested interests in public policy*

The purpose of this update is to provide specialised information on the issue of conflict of interest in food, health and nutrition sectors to the concerned people including members of AACI, public interest groups, people fighting corruption, interested policy makers and others.

### **A Common Problem**

Conflict of interest (COI) – a day does not pass without hearing or reading about COI in the TV or print media. Whether it is Jairam Ramesh talking about the ‘nuclear plant’ or Bimal Jalan about ‘financial sector’ or the Supreme Court talking about ‘Food Safety’ you have it all over. ‘Education sector’ could not escape from the ‘greed’ of food companies to educate village girls. The UN and the Bill & Melinda Gates Foundation’s push for newer vaccines for child survival has COI. The Codex Committee that helps make standards on food and nutrition has representatives of the food companies. One of the basis of ‘Jan Lokpal Bill’ is being stated be conflict of interest. Don’t we want to tackle this problem?

### **Definitions “Conflict of Interest”**

1. For [Transparency International](http://blog.transparency.org/2009/07/27/what-is-a-%e2%80%98conflict-of-interest%e2%80%99/) (TI), ‘conflict of interest’ is defined as “a ‘situation where an individual or the entity for which they work, whether a government, business, media outlet or civil society organisation, is confronted with choosing between the duties and demands of their position and their own private interests.’”  
(<http://blog.transparency.org/2009/07/27/what-is-a-%e2%80%98conflict-of-interest%e2%80%99/>, accessed 30th march 2011)

2. [Legal Dictionary on the web](http://legal-dictionary.thefreedictionary.com/conflict) defines it as “A term used to describe the situation in which a public official or fiduciary who, contrary to the obligation and absolute duty to act for the benefit of the public or a designated individual, exploits the relationship for personal benefit, typically pecuniary”.  
(<http://legal-dictionary.thefreedictionary.com/conflict>)

### **Supreme Court Slams the Door on vested interests**

Corporations unashamedly continue to meddle with public policy. COI stems from profit, trade and the market. The corporations had been making a point that world can only survive if there are “public private partnerships” (PPPs) and “stakeholder dialogues”. Use of this strategy allowed the ‘Corporation’ to get closer to policy making. That led to COI all over. On March 4, 2011, the

Hon’ble Supreme Court of India pronounced a historic order to guide policy makers and parliamentarians to manage COI. The Order has directed that scientific panels of the Food Safety and Standards Authority of India FSSAI should not have representatives of the industry but independent experts in consonance with the section 13(1) of the FSSAI Act 2006.

## People Now Understand Conflict of Interest

Fortunately people have begun to understand the matter, which people did not talk much about in 2009. Thanks to all those scams on almost everything concerning loot of public space and resources.

See news at <http://aaci-india.org/coi-news.html>



*If Tobacco Treaty  
Can, Why Can't  
Other Sectors Do?*

## Tobacco Treaty A Sign of Change !

Tobacco giants were challenged for sponsoring events or concerts. The Framework Convention for Tobacco Control (FCTC) has given hope to the people that Corporations dealing with 'food' and 'health' can also be challenged on similar grounds; they led to the 'obesity epidemic' which is even worse than risks of tobacco. The food corporations come and pose one of the greatest threat to mankind and its

future. Pharma companies cannot be expected to lay down policies on health.

Corporations present themselves as a "solution" when they are a part of the problem. Government should enact legal protection from COI.

<http://aaci-india.org/Resources/The-Global-Tobacco-Treaty.pdf>

## According to the Article 5.3 of the Tobacco Treaty, the ratifying countries should

- Refuse to treat tobacco corporations as stakeholders
- Refuse to partner with tobacco corporations for health or other purposes.
- Refuse to accept their so called corporate social responsibility schemes.

## World Health Assembly Resolutions on COI

The World Health Assembly in 2010 adopted a resolution 63.14 that calls for regulation of marketing of foods & beverages for children noting conflicts of interest as a major problem

[http://apps.who.int/gb/ebwha/pdf\\_files/WHA63-REC1/WHA63\\_REC1-P2-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA63-REC1/WHA63_REC1-P2-en.pdf)

Some of the earlier WHA resolutions on COI <http://aaci-india.org/Resources/COI-Statements.pdf>

**WHA Resolution 63.14** URGES Member States: (1) to take necessary measures to implement the recommendations on the marketing of foods and non-alcoholic beverages to children, while taking into account existing legislation and policies, as appropriate;

(5) to cooperate with civil society and with public and private stakeholders in implementing the set of recommendations on the marketing of foods and non-alcoholic beverages to children in order to reduce the impact of that marketing, while ensuring avoidance of potential conflicts of interest;...."

## What Should a COI Legislation Include?

There is a fundamental conflict between the those private producer or service providers hereinafter called as 'industry/corporation', the related organizations/lobbying bodies/front organisations/ their PPPs hereinafter called 'vested interests' and any public institution of central and state governments hereinafter called 'government'.

- The 'government' should not enter into PPPs with industry/corporation' or 'vested interests'.
- The 'Government' committee or body or policy making body should not have on it any person from 'industry' or 'vested interest', which is direct, indirect or potential.
- The 'Government' should not accept any contribution from industry/corporation' or 'vested interest' except taxes.
- The 'government' should not offer any free or subsidised land or its office space etc to industry/corporation' or 'vested interest'.
- The Government should not accept any 'drafts' of any legislation or voluntary codes from the industry/corporation' or 'vested interest'.
- Disclosure of names of public servants or spouses associated in whatever capacity with the industry/corporation' or 'vested interest' during or after retirement.
- Transparent disclosure of any intervention of public servant with the industry/corporation' or 'vested interest'.
- Disclosure of activities of industry/corporation' or 'vested interest' in public domain.
- A national empowered body like a "**Conflict of interest Commissioner**", where complaints can be given. This body could consist of ex. judges or others with impeccable integrity ,appointed by the legislature and report to the legislature.

*There is need for a  
"Conflict of interest  
Commissioner  
appointed by the  
legislature*

## It's Time Has Come !

The idea whose time has come!!

Now is the time for people and public officials to slam the door on all corporations who try to dictate public policy. Look for permanent measures – like Article 5.3 of Tobacco treaty to prevent any interference of the 'Corporation' in public policy on food, nutrition, health and all other sectors.

The RTI activists, 'India Against Corruption' should take note of the Supreme Court order and call for a national legislation on prevention of conflict of interest.

The legislation will break the

stranglehold of corporations over public policy. It will set a strong precedent of putting in place checks and balances over the massive influence of the profit driven entities over political or administrative functions and governance.

**It can thus minimize  
corruption by checking  
one of its underlying  
cause.**

## CONFLICT OF INTEREST: A Case for a Legislation

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See us at:

<http://www.aaci-india.org>

## AACI Calls Upon People and its Representatives

Alliance Against Conflict of Interest (AACI) calls upon all public policy makers, political parties, and others concerned with issues like corruption.

1. To propose legislation that protects from interference of vested interests across all sectors – that deals with prevention, identification and management of conflict of interest.
2. Make it an integral part of 'Jan Lok Pal' Bill.



*AACI members support anti corruption rally gave a call to end conflict of interests*

### About AACI

The Alliance Against Conflict of Interest (AACI) is an alliance of organisations and individuals working in various sectors – doctors, lawyers, women's and children's health groups, activists and media. AACI works on issues conflict of interest and brings them to the notice of the parties involved, the government and media. AACI aims at having a legal protection from conflict of interest in all sectors in public policy and institutionalise ethics and transparency.