**ORDINANCE NUMBER 713, FROM APRIL 17th, 2012[[1]](#footnote-1),[[2]](#footnote-2)**

***It makes public the Resolution number 1, from December 15th, 2011, which establishes Ethical Guidelines applicable to members of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ), in the form of the Annex***

The STATE MINISTER OF HEALTH, by the attribution that was conferred to him in section IV of the single paragraph of article 87 of the Constitution, and taking into consideration the provisions of the “caput” of article 3 from the Act of August 1st, 2003 and considering the 31st Meeting of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ), which happened on December 15th, 2011, in which the Ethical Guidelines applicable to the members of CONICQ were approved, decides that:

Article 1 – This Ordinance makes public the Resolution number 1, from December 15th, 2011, of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ), which establishes the Ethical Guidelines applicable to the members of CONICQ, in the form of the Annex in this Ordinance.

Article 2 – This Ordinance is valid from its publication date.

**ALEXANDRE ROCHA SANTOS PADILHA**

ANNEX

RESOLUTION NUMBER 1, FROM DECEMBER 15th, 2011

***THE NATIONAL COMMISSION FOR THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION ON TOBACCO CONTROL AND ITS PROTOCOLS (CONICQ), by the attribution conferred in section X of article 2 from the August 1st, 2003 Act, and***

Considering that the Resolution “WHA54.18”, from the World Health Assembly on transparency in the process of tobacco control, declares that “the tobacco industry has been operating through years with the expressed intention of subverting the role of the Governments and the World Health Organization (WHO) in the implementation of health public policies to stop the tabagism epidemics”;

Considering that the preamble of the Framework Convention on Tobacco Control (FCTC) recognizes that the Parts “need to maintain the surveillance against any attempt of the tobacco industry to undermine or detract the activities of tobacco control, as well as the necessity of keeping informed about the actions of the tobacco industry that negatively affect the activities of tobacco control”;

Considering that “when establishing and implementing their public health policies related to tobacco control, the Parts will act to protect these policies from the commercial interests or other interests warranted by the tobacco industry, in conformity with the national legislation”, according to article 5.3 from the FCTC;

Considering the guidelines for the application of article 5.3 of the FCTC, approved in the 3rd Conference of the Parts and elaborated based on the best available scientific evidence and in the experience of the Countries in dealing with the interference of the tobacco industry, whose objective is the protection against interference, not only from the tobacco industry, but also, when appropriate, of the organizations and individuals who work to promote the interests of this sector;

Considering that the recommended measures in the guidelines of article 5.3 of the Convention should be adopted in all sectors of the Government and are applicable to their servers, representatives and employees of any national, state or municipal organ or institution or other public institution or parastatal of the jurisdiction of the Part, as well as any person that acts in their name;

Considering that the commitment assumed by Brazil, through the process of negotiation and later with the confirmation of the Framework Convention on Tobacco Control, through the Act number 5,658, from January 2nd, 2006, should be guided by the ethics and defense of public health interests among all the actors involved in the provisions of the Treaty;

Considering what is provisioned in section XII of article 11 of the Ordinance number 1,083/GM/MS, from May 12th, 2011, which approves the Internal Guidelines of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Protocols (CONICQ) and determines the observation by its members, of the Civil Public Server Professional Ethics Code from the Federal Government and of the Act number 4.334, from August 12th, 2002, which deals with the audiences granted to individuals by public officials;

Considering the obligation of members from CONICQ of declaring the eventual conflict of interests through a form pre-defined by WHO, in terms of the section XIII from the article 11 of the Ordinance number 1,083/GM/MS, from 2011;

Considering the necessity of adoption of measures to guarantee that the National Policy for Tobacco Control is implemented in an atmosphere that is free of pressure, as well as to guarantee the integrity and impartiality of the works developed in the scope of CONICQ, avoiding situations in which interests opposite to the objectives of tobacco control can affect the activities developed to this end;

Considering that the permanent contact of public officers with representatives of private interests constitutes a characteristic of the democratic regimen, being a legitimate action that aims at subsidizing the decision of the public authority, through the presentation of discussions and technical of political data, since it happens within the strict limits of the legal rules; and

Considering the approval by CONICQ, in its 31st Meeting from December 15th, 2011, of the Ethical Guidelines applicable to its members, decides:

Article 1 – This Decision establishes the Ethical Guidelines applicable to the members of the National Commission for the Implementation of the Framework Convention on Tobacco Control and its Products (CONICQ).

CHAPTER I
OF THE PRINCIPLES AND THEIR APPLICATIONS

Article 2 – The relationships established between members of the CONICQ and the tobacco industry will be guided by the following principles:

I – Principle of Transparency, according to which the relationships established between members of the CONICQ and the tobacco industry or those who act in the promotion of their interests should be transparent and responsible;

II – Principle of the Primacy of the Interests of the Public Health Policy, according to which, interests from the tobacco industry are irreconcilable with the ones of the public health policy, which are, in any situation, a priority;

III – Principle of the Sharing of Information, according to which, the information related to the tobacco industry to which they have access during the exercise of their functions and the interference of those in the public policies for tobacco control should be widely shared among CONICQ representatives; and

IV – Principle of the Publicity of the Interactive Practices, according to which the interactive practices between CONICQ and their members and the tobacco industry should be preferentially characterized by publicity.

Section I
Of the Conflict of Interests

Article 3 – CONICQ representatives should avoid conflicts of interest and, when it is the case, they should declare its existence, according to the form provisioned in section XIII of article 11 of the Ordinance number 1,083/GM/MS, from May 12th, 2011.

Single Paragraph. The following situations can trigger conflicts of interest, among others:

I – property interests;

II – involvement of relatives;

III – involvement of friendship; and

IV – professional involvement.

Article 4 – With the objective of preventing a potential conflict of interest, the CONICQ member should:

I – keep away from acting as a member of the CONICQ while the situation that might characterize conflict of interests lasts; and

II – in the hypothesis of specific and transient conflict of interests, communicate this happening to the immediate superior and the Executive-Secretary of CONICQ, abstaining from participating in the debate of the subject and voting in an eventual collective decision.

Article 5 – In the relationship with Public Administration organs, entities and servers, the member of CONICQ should clarify the existence of all and any private or specific interest that could trigger conflicts of interest, either apparent, potential or effective.

Single Paragraph. For the purposes of the provisioned in the “caput”, the member of the CONICQ should declare himself not appropriate for participating in the decision process.

Section II
Of the Interactive Practices with the Tobacco Industry

Article 6 – CONICQ and its members should guarantee the transparency of any relationship with the tobacco industry, having to act in a way that the required information or those transmitted by the tobacco industry are transparent and precise.

Single Paragraph. There will be no priority treatment and no partnership with the tobacco industry.

Article 7 – In the situations of relationship with the tobacco industry, the members of CONICQ should take into consideration the following guidelines:

I – the audience request should be directed to the public officer, in written, through fax or electronically, containinig:

a) the identification of the one requesting, including address, e-mail and the telephone and fax number;

b) date and time in which he/she would like to be contacted and if that is the case, the reason for the urgency;

c) subject to be approached;

d) interest of the one requiring in relation to the subject to be approached;

e) identification of companions, if there are any;

II – the audience will always have an official character and will be preferentially done in the headquarters of the organ;

III – the public officer responsible for receiving the tobacco industry in audience should be together with at least one other public server; and

IV – a specific registration of the audience will be formalized, with a list of the people attending and the subjects discussed.

§ 1 When the audience is done in an unexpected way or out of the working place, it should be formalized afterwards, “memorandum for archiving”, with the identification of the attendees, the subjects discussed and the decisions made.

§ 2 The record of the audience will be then taken to the CONICQ Executive Secretary, for archiving.

§ 3 The guidelines established in this article aim at guaranteeing transparency to this process and guaranteeing clarity of the positions, according to the provisioned in article 3 of the Conducts Code and in Act number 4,334, from August 12th, 2002.

Section III
Of the presents and gifts

Article 8 – Presents, gifts and services, in cash or other forms, as well as financing of research offered by the tobacco industry should be refused by the CONICQ members.

Section IV
Of the Events Sponsored by the Tobacco Industry

Article 9 – CONICQ members should not endorse, support or form partnerships in tobacco industry activities, even the ones described as socially responsible.

Article 10 – The participation of CONICQ members in seminars of similar events promoted of sponsored by the industry will be possible when derived from institutional interest, the costs being charged to the institution.

§ 1 – It will be a duty of the member to inform the CONICQ Executive Secretary about the participation pre-defined in the “caput” and present a report, which will be open to the remaining members.

§ 2 – In case you understand it is necessary, the members can request previously, guidance from the CONICQ Executive Secretary in relation to how adequate their participation in the event is.

§ 3 – The participation pre-defined in the “caput” can be in the name of the organ or entity to which the CONICQ member is linked or in the name of CONICQ, depending on the indication.

Article 11 – CONICQ members should avoid the participation due to private interest in seminars or similar events promoted or sponsored by the tobacco industry.

Single Paragraph. In the hypothesis of participation such as the one treated in the “caput”, the costs should be responsibility of the public officer himself, since there is no conflicts with the exercise of the public function and it is not a company or entity submitted to the jurisdiction of the interested authority.

Article 12.- The participation of a CONICQ member in seminars or similar events promoted by the tobacco industry to give a lecture of institutional interest cannot be paid by the promoter of the event.

Single Paragraph. The participation in seminars or similar events promoted by the tobacco industry to give lectures of private interest is not recommended.

Section V
Of the Proposal of Employment

Article 13 – The CONICQ member cannot advise, either formally or informally, the tobacco industry or their affiliated, due to the potential characterization of a conflict of interests.

Article 14 – For the period of four months, counted from the date abandoning the function of CONICQ member, it is recommended that the public officer does not perform professional activity, including advising activities, which are incompatible with the functions developed at CONICQ.

CHAPTER II
FINAL PROVISIONS

Article 15 – The Ethical Guidelines defined in this Resolution should be understood as a whole and interpreted in a complementary and interdependent way, considering each guideline in the context of the remainder, in the appropriate and pertinent level, according to the circumstances of each concrete case.

Article 16 – Possible doubts about the application of the provisions of this Resolution will be responded by the CONICQ Executive Secretary.

Single Paragraph. If you understand it is necessary, the CONICQ Executive Secretary can forward your questions to the Legal Work Group at CONICQ (Legal-WG CONICIQ)

**ALEXANDRE ROCHA SANTOS PADILHA
CONICQ President**

1. Original version is available by this link <http://bvsms.saude.gov.br/bvs/saudelegis/gm/2012/prt0713_17_04_2012.html> [↑](#footnote-ref-1)
2. Translate by the Executive Secretariat of the National Committee for the FCTC Implementation (CONICQ) / National Cancer Institute / Ministry of Health [↑](#footnote-ref-2)