Reflections on Ministerial Leadership: Tobacco Control in the Philippines

The Philippines has the second highest percentage of smokers in Southeast Asia and the government has a long history of being favorable to the tobacco industry. Recently new legislative steps have been approved to restrict tobacco use and ease the effects of smoking on public health. A key benefit of the tough tax regime imposed on tobacco use is increased revenue to the national health budget. This case study outlines the problem, implementation and outcomes of tobacco control as follows:

- Tobacco companies in the Philippines have maintained a high level of influence and commanded industry favorability from the government. One company in particular, Philip Morris Philippines Manufacturing Inc., has managed to gain 90% of the tobacco market share since the introduction of a four-tiered tobacco tax, using its power to manipulate legislation and protect its interests through lawsuits.

- With 28% of adults and 17.5% of youth smoking, tobacco causes an estimated 87,600 deaths per year and approximately half of the population is exposed to second hand smoke in their homes.

- To address these issues, the government has banned smoking in healthcare, educational, and indoor government facilities as well as public transportation, indoor workplaces, and public places.

- A Sin Tax was introduced in 2012 to increase excise tax to 52.5% in 2013 and raise it to 63% in 2017. This reform was intended to improve on the four-tiered system that aided Philip Morris in gaining market share. The government also introduced legislation in 2010 that prohibits tobacco industry interference in lawmaking.

- Although the measures taken by the government are very recent, it is estimated that the reforms will reduce the number of smokers by 8.29 million and save 3.54 million lives. The Sin Tax will generate $569.91 million in its first year.

Revenue from the Sin Tax will fund universal healthcare, programs to accelerate progress towards the Millennium Development Goals, and health awareness programs.

The tobacco industry is deeply rooted in the Philippines and has worked aggressively over many decades to build influence among legislators and has also routinely reverted to the courts to challenge and overturn key tobacco control measures over the years. The successful passage through the Philippine's parliament of the 2012 Sin Tax is a major credit to the leadership of Health Minister, Enrique Ona. It demonstrates on the one hand the importance of a supportive political climate (in the administration of President Benigno Aquino), but also the linking of punitive tobacco taxes with improvement in health service access and quality.

This case was by prepared by Karima Ladhani and Michael Sinclair (both Harvard School of Public Health) and was reviewed by Hon. Dr. Enirque Ona, Secretary of Health of the Philippines.

Tobacco Control in the Philippines

Background

The Philippines has a longstanding reputation as a country in which the tobacco industry has thrived. For over four decades, former President Ferdinand Marcos granted tax and import incentives to Fortune Tobacco (a Philippine company) to create a near monopoly in the cigarette market, particularly among low-priced brands. Smaller players such as US-based Marlboro and Philip Morris International (PMI) entered the market via licensing agreements with local cigarette makers such as La Suerte Cigar & Cigarette Factory in the 1950s and maintained these agreements for almost 50 years. As tobacco restrictions tightened and anti-tobacco sentiment grew in the developed world, tobacco companies turned even greater attention to emerging markets like the Philippines to maintain profitability[i].

In 2003, PMI established Philip Morris Philippines Manufacturing Inc. (PMPMI) and opened a US$300 million manufacturing plant praised by former President Gloria Macapagal-Arroyo as a "testament of investor confidence in her administration." After acquiring Indonesian cigarette company Sampoerna, PMPMI essentially inherited four low-priced cigarette brands and introduced L&M, a popular mid-priced brand. Concurrently, La Suerte broke out on its own by gaining market share through two low priced-brands[ii].

In 1997 the Philippine government introduced a four-tiered tobacco tax (with biannual increases from 2005 to 2011), which favored the new low-price brand cigarettes produced by PMPMI and penalized older mid- and higher priced brands (i.e. those introduced to the local market before 1996). PMPMI's main competitor, La Suerte's low-end brands were classified as mid-priced and subject to higher tax rates which irrevocably diminished its market share due to the increase in price[iii]. By 2010, PMPMI had entered into a merger with Fortune Tobacco, creating the Phillip Morris Fortune Tobacco Company (PMFTC), which controls 90% of the US$1.7 billion Philippine tobacco market[iv].

Situational Analysis

Tobacco Use[v]

The Philippines is the second biggest market for cigarettes in Asia, second only to Indonesia, which has 50 million smokers. According to the 2009 Global Adult Tobacco Survey, up to 28.3% (17.3 million) of those aged 15 years and older currently smoke tobacco: nearly half (47.7% or 14.6 million) of men, and 9% (or 2.8 million) of women are smokers. Nearly twenty-three percent, or 13.8 million adult Filipinos are daily smokers, with an average consumption of 10.6 cigarettes per day. In the 2007 Global Youth Tobacco Survey, the prevalence of tobacco use among students 13-15 years of age was 22.7%: 17.5% of children in this age group were found to be smokers. The average age of initiation of daily smoking for men was found to be 17.4 years, compared to 19.1 years for women.

The 2009 Survey showed a decline in smoking prevalence relative to increasing income and education. For example, men in the wealthiest quintiles in urban areas were the least likely to smoke (26.7%) compared to their counterparts (61.8%) in the poorest quintiles of urban areas. Only 4.5% of women with college or higher education were smokers, compared to 25.1% of women with no formal education.

Second-hand smoke exposure is estimated to affect the 55% of youth who have at least one parent who is a smoker. 49% of adults reported living in homes that allowed smoking: those with no formal education (64.7%) were the most likely to allow smoking inside their home, especially compared to only 37.0% for those with college education or higher. Among adults, approximately 40% are exposed to

second-hand smoke daily in their homes and over 54% report at least one monthly exposure. Sixty-five percent of youth are exposed to second-hand smoke in public places and 40% of adults are exposed in the workplace. Adults also cite exposure levels of 55% on public transport, 34% in restaurants, 26% in government offices, and 8% in healthcare facilities.

Ninety-four percent of adult Filipinos believe that smoking causes serious illness. Perhaps linked to this knowledge is the fact that over 60% of current cigarette smokers are interested in quitting. In 2003, tobacco use was estimated to cause 240 deaths per day, or 87,600 per year resulting in an economic cost of US$858 million to treat the four major diseases caused by tobacco use and US$5.2 billion in lost productivity due to morbidity and mortality.

Economics[vi]

Tobacco is grown in 27 provinces throughout the Philippines, with half or more of tobacco production being exported. However, the devoted acreage and quantity of tobacco grown has been falling in recent decades and tobacco farmers only account for 0.4% of total agricultural employment. Regardless, the tobacco industry has used a political block made up of congressional members from tobacco growing provinces to lobby for weak legislative regulation.

Cigarettes are the most consumed tobacco product, cornering 99% of total sales value. Despite reductions in per capita and per smoker consumption, overall cigarette consumption has been rising over time: there has been nearly 19% increase from 64.1 billion tax paid cigarettes in 1997 to more than 80.9 billion in 2010. Studies suggest that the more rapid decline in sales per smoker relative to sales per capita indicates that the number of smokers is rising faster than the population.

Tobacco Regulation

In 2003, the Philippine government ratified the Tobacco Regulation Act, an omnibus law banning smoking in public places and workplaces such as health care, educational institutions and facilities frequented by minors; banning sales and advertisements to minors; regulating packaging and labeling of tobacco products; and banning tobacco advertising, promotion and sponsorship[vii]. Prior to this, some local government had already enacted their own ordinances banning smoking in public areas[viii]. The government ratified the WHO Framework Convention on Tobacco Control (FCTC).

Despite these efforts, the tobacco lobby has been strongly, and in most cases successfully, challenging government efforts to further regulate tobacco sales[ix, x]. For example, tobacco industry lawsuits have been especially effective in ensuring that more effective graphic warning labels on cigarette packages have not been legislated. When Congress failed to pass “An Act to Effectively Instill Health Consciousness through Picture-based Warnings on Tobacco Products” in 2008, former Health Secretary Esperanza Cabral issued an administrative order to override the bill in 2010. This was followed by five different cases against the administrative order being filed in five different local courts by five separate cigarette companies, effectively stalling implementation through pending cases or reversal judgments. The MMDA’s ordinance arresting people caught smoking in open areas of the metropolis was quickly stopped by a preliminary injunction.

Of the top 6 economies in the ASEAN, only the Philippines and Indonesia have failed to implement graphic warnings. For this failure, the Philippines was awarded the Dirty Ashtray award at the fourth session of the Conference of the Parties (COP-4) to the FCTC for allowing the tobacco industry to influence its position through international trade laws[xi]. In COP-5 the Philippines was awarded the Red Orchid Award for not including representatives of tobacco industry in its delegation.

Strategy

The Philippine government has been making efforts to improve its image in the global tobacco control arena. To ensure an accurate understanding of the extent to which tobacco plagues the Philippine population, the country was one of 14 countries that participated in the first round of the Global Adult Tobacco Survey (GATS) in 2009. GATS is a nationally representative household survey that tracks tobacco use prevalence; second-hand tobacco smoke exposure and policies; cessation efforts; knowledge, attitudes and perceptions among the population; media exposure; and economics.

The regulations on smoke-free environments; tobacco packaging and labeling; sales to minors; and advertising, promotion and sponsorship, are governed by the Tobacco Regulation Act of 2003 and its associated Implementing Rules and Regulations. The Philippines has banned smoking in healthcare, educational, and indoor government facilities, as well as on public land transportation. Smoking is also banned in indoor workplaces and public places but designated smoking areas are permitted. Tobacco advertising, promotion, and sponsorship are banned on national and international television, radio, print media, and at concerts, sporting and cultural events. However, promotional materials such as leaflets and posters are allowed at the point of sale and the industry takes strong advantage of this loophole by going so far as to provide promotional discounts and distributing free samples. In terms of warning labels, only four different text-only labels are employed that cover 30% of the front of the package and 60% of the back. These efforts are far short of the FCTC requirements. [xii]

To address the issue of tobacco industry interference, the Department of Health partnered with the Civil Service Commission in early 2009 to create an interagency and multi-sectoral committee, consisting of government agency and civil society organization representatives, that aims to "protect public health policies from the interests of the tobacco industry in accordance with their national law." The Committee drafted and promoted the Civil Service Commission-Department of Health Joint Memo Circular No. 2010-01 (Protection of the Bureaucracy against Tobacco Industry Interference) in July 2010. This revolutionary legislation applies Article 5.3 guidelines to the Philippine government and its operations. It clarifies tobacco industry interference, prohibits government personnel from interacting with the tobacco industry unless strictly necessary, highlights the necessity for transparency in interactions, requires reports of interactions with the tobacco industry, and subjects violators to disciplinary action. The Committee has also motivated declarations from government agencies such as the Land Free Transportation and Regulatory Board, the National Youth Commission, and the Commission on Higher Education renouncing relationships with the tobacco industry[xiii].

Until recently, tobacco taxation was implemented through a non-indexed four-tier system for low, medium, high, and premium-priced brands based on 1996 net retail prices due to a "price classification freeze" for most brands. In December 2012, in landmark legislation, President Benigno S. Aquino III signed the Sin Tax Reform Law of 2012 to increase the excise tax for cigarettes from 29.1% of the retail price to 52.5% in 2013 and 63% in 2017[xiv]. The excise tax rates will be increased by 4% every year starting in 2018 to ensure that they keep up with inflation.

The sin tax law was packaged as a health measure with the Philippine DOH taking the position that imposing the highest possible tax rate on cigarettes as a dominant strategy, regardless of what the market response would be. If the market response is low (i.e., people continue to smoke despite tax increases), enough revenue is expected to raise access and quality of health services that could compensate for the continued health risks owing to smoking. On the other hand, if the market response is high (i.e., a significant number of people quit or reduce smoking), revenue might be low but the direct health effects (i.e., averted death and illness) would be highly beneficial, especially among the poor who are the main beneficiaries of universal health care. (i.e., the poor, women, and children). The increase in

the price makes a powerful disincentive for those without disposable income to continue smoking. While the addictive nature of smoking will lead to inelastic demand on the part of long-time smokers; the steep increase in price will discourage new smokers from taking up the habit[xv].

Outcomes

Many of the strategic tools implemented by the Philippine government are relatively recent and thus their impact on health outcomes is yet to be seen. Regarding the newest sin taxes which will reach 63% of the retail price of cigarettes in 2017, estimates show that an increase in the tax rate to 53.8% of the retail price will reduce the number of current and future smokers by 8.29 million and save 3.54 million lives[xvi]. The tax, which is also being levied on alcoholic products, is expected to provide the government with an additional US$827.1 million in the first year alone, of which $569.91 million will be generated from cigarette sales[xvii].

Revenues generated from the sin tax will be used to fund universal health insurance and other health care initiatives, as well as provide alternative livelihood support in tobacco-producing areas that will be affected economically by this policy. After deducting the earmarks for tobacco-producing provinces (as per RA 7171 and RA 8240), 80% of the remaining incremental revenue is to be allocated to universal health care, acceleration of progress towards the Millennium Development Goals, and health awareness programs. The remaining 20% is to be allocated for the improvement of health facilities and medical assistance programs[xviii].

References

2009 Philippines' Global Adult Tobacco Survey. WHO, 2009.
http://www.who.int/tobacco/surveillance/gats_philippines_fact_sheet.pdf

"Aquino signs Sin Tax Reform Law." Xinhua News Agency, December 20th 2012.
http://www.philstar.com/breaking-news/2012/12/20/888321/aquino-signs-sin-tax-reform-law

"Global Epidemic: Philippines." Campaign for Tobacco Free Kids, 2012.
http://global.tobaccofreekids.org/en/global_epidemic/philippines/

Diaz J. "Higher sin taxes take effect today." The Philippine Star, January 1st 2013.
http://www.philstar.com/headlines/2013/01/01/892045/higher-sin-taxes-take-effect-today

Office of the President of the Philippines. "Sin Taxes." The Official Gazette, September 19th 2012.
http://www.gov.ph/sin-tax/

"The Philippines: Advocates and Government Agencies Work to Combat Industry Interference." Campaign for Tobacco Free Kids.
http://global.tobaccofreekids.org/en/industry_watch/case_studies/the_philippines_advocates_and_government

"The Philippines: Tobacco Control Laws." Campaign for Tobacco Free Kids.
http://www.tobaccocontrollaws.org/legislation/country/philippines/summary

"PMI, Fortune Tobacco Corporation Merge to Control Philippines Market." Campaign for Tobacco Free Kids, March 2nd 2010.
http://global.tobaccofreekids.org/en/global_updates/detail/pmi_fortune_tobacco_corporation_merge_to_control_philippines_market

Quimbo SLA, Miguel-Baquilod M, Xu X, Casorla AA, Medalla FM, Chaloupka FJ. "The Economics of Tobacco and Tobacco Taxation in the Philippines."International Union Against Tuberculosis and Lung Disease, 2012. http://global.tobaccofreekids.org/files/pdfs/en/Philippines_tobacco_taxes_report_en.pdf

Rimando L. "How the sin tax policy created a duopoly." ABS CBN News, February 25th 2010. http://www.abs-cbnnews.com/business/02/25/10/how-sin-tax-policy-created-duopoly

Rimando L. "Philip Morris and its Philippine Saga." ABS CBN News, February 25th 2010. http://www.abs-cbnnews.com/business/02/25/10/philip-morris-and-its-philippine-saga

"Victory in the Philippines: President Signs Historic Cigarette Tax Increase." Campaign for Tobacco Free Kids, December 21st 2012. http://global.tobaccofreekids.org/en/global_updates/detail/2012_12_21_philippines

Visconti K. "Tobacco firms win legal battles in PH." Newsbreak, October 26th 2012. http://www.rappler.com/newsbreak/14926-tobacco-firms-win-legal-battles-in-the-philippines
Visconit K. "Smoking kills? Not in graphics." Newsbreak, February 18th 2013. http://www.rappler.com/newsbreak/22069-smoking-kills-not-in-graphics

"WHO Framework Convention on Tobacco Control." World Health Organization, 2011. http://www.who.int/fctc/publications/flyer_en.pdf

[i] http://www.abs-cbnnews.com/business/02/25/10/how-sin-tax-policy-created-duopoly
[ii] http://www.abs-cbnnews.com/business/02/25/10/philip-morris-and-its-philippine-saga
[iii] http://www.abs-cbnnews.com/business/02/25/10/how-sin-tax-policy-created-duopoly
[iv] http://www.abs-cbnnews.com/business/02/25/10/philip-morris-fortune-tobacco-merge-rp-operations
[v] All figures unless otherwise stated are taken from the 2009 Philippines' Global Adult Tobacco Survey: Country report. 16 March 2010. Accessed: http://www.who.int/tobacco/surveillance/2009_gats_report_philippines.pdf
[vi] The Economics of Tobacco and Tobacco Taxation in the Philippines. Quimbo et. al. 2012. Accessed: http://global.tobaccofreekids.org/files/pdfs/en/Philippines_tobacco_taxes_report_en.pdf
[vii] http://www.tobaccocontrollaws.org/legislation/country/philippines/summary
[viii] http://www.davaocity.gov.ph/davao/view.aspx?type=slideshow&id=1
[ix] http://www.rappler.com/newsbreak/14926-tobacco-firms-win-legal-battles-in-the-philippines
[x] http://www.rappler.com/newsbreak/22069-smoking-kills-not-in-graphics
[xi] http://www.rappler.com/newsbreak/14926-tobacco-firms-win-legal-battles-in-the-philippines
[xii] http://global.tobaccofreekids.org/en/global_epidemic/philippines/
[xiii] CSC-DOH Joint Memorandum Circular 2010-01. Accessed 24 April 2013 at: http://www.tobaccocontrollaws.org/files/live/Philippines/Philippines%20-%20JMC%202010-01%20-%20national.pdf
[xiv] http://www.philstar.com/breaking-news/2012/12/20/888321/aquino-signs-sin-tax-reform-law
[xv] The Economics of Tobacco and Tobacco Taxation in the Philippines. Quimbo et. al. 2012. Accessed: http://global.tobaccofreekids.org/files/pdfs/en/Philippines_tobacco_taxes_report_en.pdf
[xvi] The Economics of Tobacco and Tobacco Taxation in the Philippines. Quimbo et. al. 2012. Accessed: http://global.tobaccofreekids.org/files/pdfs/en/Philippines_tobacco_taxes_report_en.pdf
[xvii] http://www.philstar.com/breaking-news/2012/12/20/888321/aquino-signs-sin-tax-reform-law
[xviii] http://www.gov.ph/2012/12/19/republic-act-no-10351/