

The Philippines

58

Summary of Findings

1. Industry participation in policy development

The tobacco industry continues to have strong influence with policymakers and is attempting to erode gains in tobacco control policy. Despite the competing priorities and urgency of COVID-19 as a public health issue, several legislative hearings pushed through to discuss bills that are meant to water down tobacco control policies.

Republic Act No. 11467, enacted into law in January 2020, reiterated the authority of the Food and Drug Administration (FDA) to regulate electronic nicotine delivery systems (ENDS)/electronic non-nicotine delivery systems (ENNDS) and heated tobacco products (HTPs). The law gave the FDA an express authority to “periodically determine and regulate, consistent with evolving medical and scientific studies, the manufacture, importation, sale, packaging, advertising, and distribution” of both products. Other pertinent provisions include prohibiting the sale of HTPs, ENDS and ENNDS to nonsmokers or persons below 21 years of age and limiting flavors to plain tobacco or plain menthol.

2. Industry CSR activities

Tobacco companies continued conducting their so-called corporate social responsibility (CSR) activities directly through their companies, their foundations or by couring it through other organizations. Philip Morris Fortune Tobacco Corporation (PMFTC), through its CSR arm, Embrace, partners mainly with Jaime V. Ongpin Foundation Inc. (JVOFI). It was monitored that PMFTC and/or LT Group, Inc. conducted 34 out of the 36 monitored industry donations

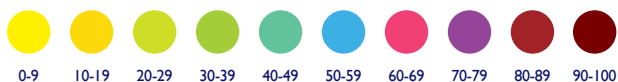
or so-called CSR activities in 2020. Most of the donations were done in partnership with the local government units, and the Philippine National Police, as well as partnerships with local government executives and representatives in Congress.

This year, there seems to be a shift in strategy in that, while PMFTC still conducts CSR activities through their Embrace program, some of the donations have been conducted by the holding company, the LT Group, Inc. (LTG), colloquially known as the Lucio Tan Group (LTG), after its owner. The LTG includes PMFTC as a subsidiary, along with other companies like Philippine Airlines, Tanduay Brewery, Philippine National Bank, etc. Nonetheless, despite changing the name of the sponsor, Lucio Tan is well-known in the Philippines as the owner of a tobacco company and many of the donations and so-called CSR activities mention PMFTC, along with LTG as sponsor of the activity. The CSR activities are conducted through their program called “Help Flows.”

Taking advantage of the COVID-19 pandemic, tobacco companies were active in donating medical equipment and personal protective equipment to hospitals, as well as food supplies to communities affected by lockdowns. Some of the donations for the local government were distributed first through politicians, such as the congressmen, and local government officials.

3. Benefits to the industry

To help curb COVID-19, the government imposed a lockdown that restricted transport of products to just essential goods. Tobacco was considered a non-essential good and its transport and delivery was restricted in areas where a lockdown was imposed in mid-March 2020. The Department of Health



issued a Department memo on tobacco control in light of the COVID-19 pandemic, stating that tobacco and vapor products shall not be classified as essential goods.

Industry sources reported that, while there was no outright ban on sales, the manufacture of tobacco had to stop during the lockdown imposed in Luzon and other parts of the country. Philip Morris Inc. reported that their total market in the Philippines was down by 12% in 2020, mainly reflecting the impact of pandemic-related quarantines, as well as industry-wide price increases.

By April 2020, Secretary Dominguez of the Department of Finance was quoted saying that lifting transportation on tax-paid cigarettes is "under consideration because the absence of cigarettes encourages illicit trade." Restriction on the transport and delivery of tobacco products was subsequently lifted. The government also announced that the tobacco industry sector can operate on 50% capacity in places where there is a Modified Enhanced Community Quarantine and 100% capacity during the General Community Quarantine. Thus, an exception was carved for the tobacco industry based on information provided by the industry.

4. Unnecessary interaction

PMFTC has a strong partnership with the Armed Forces of the Philippines (AFP). The company not only donated ambulances to the AFP, but also tapped the Philippine Army to participate in its distribution of relief goods. PMFTC was recognized by the AFP and given two awards this year.

Philippine Economic Zone Authority Director General Charito Plaza was photographed going around Bago City with Japan Tobacco President John Freda and Winston Uy of Universal Leaf (February - March 2020). The Bureau of Customs continues to engage the participation of the tobacco industry in its enforcement activities. On May 11, 2020, the Bureau of Customs, through its Enforcement and Security Service, led the destruction of smuggled cigarettes. The activity was witnessed by Customs Commissioner Rey Leonardo Guerrero and Deputy Commissioners along with Mr. John Freda, CEO of Japan Tobacco International.

5. Transparency

Section 3.1 of the Department of Health (DOH) – Civil Service Commission (CSC) Joint Memorandum Circular (JMC) 2010-01 requires transparency in all interactions with the tobacco industry and the Annex of the policy outlines the procedure to be observed when meeting with the tobacco industry is strictly necessary. The procedure includes documenting the meeting and distributing information about the meeting.

Section 5.2 of the same Memorandum Circular requires government agencies to provide information about any interaction they had with the tobacco industry to the CSC. To ensure transparency and accountability, the government agency shall ensure that copies of these documents will be accessible to the public. The CSC has not received any reports or disclosures of any meetings or interactions between the tobacco industry and government as required in the JMC.

6. Conflict of interest

Except for specific industries, there is no prohibition anymore on domestic corporations to give donations in aid of any political party or candidate or for purposes of partisan political activity. (Sec. 35i, RA 11232). Moreover, individuals, including representatives of the tobacco industry, are allowed to contribute to political parties, candidates or campaigns.

As regards retired senior officials forming part of the tobacco industry, former Solicitor General Estrelito Mendoza is counsel of Lucio Tan, the Chairman of PMFTC. He is also a new Director in the Philippine National Bank (PNB), a corporation that is part of the LT Group, Inc.

Former Undersecretary of Finance, Florencia Tarrila, served as PNB Chairperson. She is currently an Independent Director of the LT Group, Inc.

7. Preventive measures

There are preventive measures in place to implement Article 5.3 of the Framework Convention on Tobacco Control (FCTC). The DOH and the CSC issued the CSC-DOH Joint Memorandum Circular (JMC) in 2010, which applies to all officials and employees of the government. The JMC prohibits interaction with the tobacco industry unless strictly necessary for its effective regulation. Where there is a necessary interaction with the tobacco, the JMC requires transparency in interactions with the tobacco industry through submission of reports or minutes of meetings that should be publicly accessible.

Article 3.1 and the Annex of the JMC provides that any necessary interactions between public officials and employees and the tobacco industry should be documented in a specific manner and required to be in an official transcript of records, which should be filed and be made available to the public upon request.

In addition, article 5.2 of the JMC requires agencies to give information on interactions with the tobacco industry, any preferential treatment given, and any offer of donation to the public official or employee by the tobacco industry, and to make copies of these documents accessible to the public. Further, article 6.1 of the JMC requires agencies to include its compliance with the JMC in its Annual Report.



Most of the donations were done in partnership with local government units, the Philippine National Police, as well as partnerships with local government executives and representatives in Congress. Public officials contravene a government circular when they endorse such charity.



Recommendations

There is a need to protect the JMC and strengthen its implementation.

There seems to be a concerted effort to reverse or weaken the CSC-DOH JMC on Protection of the Bureaucracy Against Tobacco Industry Interference. This was apparent in the hearings conducted in Congress.

There is a need to align the policies with Article 5.3 of the FCTC.

There are policy areas where the Philippines remains non-compliant with the recommendations of Article 5.3 Guidelines. There is a need to review the laws and policies to look into these areas and plan which can be addressed feasibly.

There is a need to review communication strategies on raising awareness on tobacco industry interference.

Over the years, we have observed that the tobacco industry has identified certain partners in civil society, and government agencies and officials. Tobacco control advocates have a role to engage with these agencies, groups or government officials to brief or remind them about Article 5.3 and/or the JMC. In any case, it will be good to bring to their attention that civil society is monitoring these partnerships and to remind them that there is a reputational risk in dealing with the tobacco industry.

In addition, there needs to be a more systematic manner in raising awareness about tobacco industry interference. Regular reminders by the CSC in the media for public awareness, and sharing engaging materials through social media are just a few examples. In this time, where there are competing health priorities, coupled with strong tobacco industry interference, it becomes crucial that the public continues to be informed and supportive of tobacco control.