Policy Vacuum

A Tobacco Industry Fait accompli?

NGTPs and The Policy Dilemma in Pakistan

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Table of Contents

Acronyms ..............................................................................................................................................................................................................4
About the Project ...............................................................................................................................................................................................5
Introduction .........................................................................................................................................................................................................6
Understanding the NGTPs ..............................................................................................................................................................................6
Policy Gaps and Vacuum in Pakistan ...........................................................................................................................................................7
Exploitation by the TI ........................................................................................................................................................................................8
Recommendations & Conclusion .................................................................................................................................................................9
References ..........................................................................................................................................................................................................11
Acronyms

FCTC: Framework Convention on Tobacco Control.
HnB: Heat no Burn.
HTPs: Heated Tobacco Products.
LMICs: Low-and-Middle-Income Countries.
MoNHSR&C: Ministry of National Health Services Regulation and Coordination.
MPOWER: (Six components of World Health Organization, these are the measures complementing Framework Convention on Tobacco Control). M refers to Monitoring the tobacco use and prevention policies pertaining to the tobacco usage, P is to ‘Protect’ the people from harmful tobacco smoke. Similarly, O refers to ‘Offering’ the help to quit smoking, Warning about the harmful dangers of the tobacco use is the next component. ‘E’ has been catered to ‘Enforce’ the ban on the tobacco advertising, including promotion and sponsorship of events etc. and finally ‘R’ refers to ‘Raising’ the taxes on all tobacco products.
MRTPs: Modified Risk Tobacco Products.
NGTPs: Next Generation Tobacco Products.
PREPs: Potentially Reduced-Exposure Products
SRO: Statutory Regulatory Order
TCC: Tobacco Control Cell.
TI: Tobacco Industry.
WHO: World Health Organization.
About the Project

Sustainable Development Policy Institute (SDPI), through Bloomberg Tobacco Control Initiative and in collaboration with The Union is conducting tobacco control project in Pakistan. The project objectivises to assist the Ministry of National Health in developing Pakistan’s strategic policy direction and guideline on GHW/PHW, Smokeless Tobacco Control (SLTC), and Next Generation Tobacco Products (NGTPs) including E-cigarettes, ENDS, ANDS and HnBs. The project also looks forward to collating the evidence on gaps in existing TC framework in line with MPWER commitments by Pakistan. Finally, the project will also facilitate the national and provincial governments in sustainable TC initiatives through system strengthening and capacity building of the stakeholders, in post-COVID-19 environment. This policy brief develops an understanding of the rapidly expanding NGTPs market, and foresees it mushrooming out of control, before a realization at the national policy level takes the charge. Foregoing in view, this policy brief aspires to highlight the significance of the policy development on the tobacco products and makes policy recommendations for the future of the NGTPs in Pakistan. In is also an effort to strengthening the need for a multi-sectoral and comprehensive tobacco control regime and policies in Pakistan, the recommendations will be shared with the policy makers and legislative framework.
NGTPs and Policy Dilemma in Pakistan

Introduction

Health systems around the globe are traditionally structured at national level and the policies disseminated to the lower tiers. After the institution of the 18th Constitutional Amendment, multiple governance sectors, including health, were devolved to the provinces. However, many structural impediments continued to hinder the uninterrupted functioning at provincial level, not to mention issues causing inevitable temporary reversal to federal level (Khan et al., 2014). Nishtar (2011) has argued in favour of retaining health-related policy and governance issues at the national level. Tobacco control is a vital issue, notwithstanding the politics of tobacco, the policy needs to accrue from the MoNHSR&C for further dissemination and implementation. Due to structural inadequacies, devolution of power, political reluctance, and many other inhibitions, the tobacco control policies get delayed, and in most cases are absent, becoming a major driver of health inequalities. Tobacco Industry (TI) finds the appropriacy in policy vacuum and exploits these gaps very conveniently (Janjua and Naqvi, 2020).

Tobacco continues to be the leading cause of the preventable deaths and causes enormous health burden on especially in Low-and-Middle-Income-Countries (LMICs), which, Rezaei et al. (2016) contend, has been estimated to be as high as 15% of the health budget in some countries. The tobacco control policies rest on two significant pillars; first, preventing the initiation of smoking, and second, smoking cessation. The focus of national policies in Pakistan has been on the former, with minimal to no policies focusing on the latter. There is a constant struggle between the tobacco control regime on the one hand and tobacco industry exploiting all possible gaps on the other. Realizing the policy vacuum in the cessation domain, TI is seamlessly indoctrinating the youth/smokers and is introducing Next Generation Tobacco Products (NGTPs) as a cessation aid making hefty profits at the cost of the health.

The policy vacuum in NGTPs is confounding those who are in genuine need of help to quit, as well as encouraging the TI to make rapid progress and profits in a short span of time. Foregoing, this policy brief inquires the issues related to policy gaps, making recommendations to overcome the vacuum, emphasizing the need to promote proactive and protective regulation and legislation rather than curative and preventive policies.

Understanding the NGTPs

The US Institute of Medicine referred to the products with reduction in exposure to one or more tobacco toxicants as “potentially reduced-exposure products” or PREPs (Stratton et al., 2001), which was replaced by the Food and Drugs Administration as the “modified risk-tobacco products (MRTPs). The Union (2020) has defined the novel or NGTPs as the hybrid products that contain both tobacco and nicotine solutions, and their rapid emergence has blurred the difference among the tobacco products. For example, Electronic Nicotine Delivery Systems (ENDS) is the umbrella term used for the electronic smoking products and includes e-cigarettes, vapes, vape pens, etc. (Iftikhar and Naqvi, 2019-2020) ENDS are the devices that heat the liquid containing nicotine to create an inhalable aerosol. The products vary in shape, size, function, and price, ranging between low-cost disposable devices to large refillable tanks. E-Cigarettes also vary with regard to nicotine dosage, flavours, emissions, design, battery voltage, and unit circuitry (Margham et al., 2016, Talih et al., 2014). Additionally, the open systems in E-Cigarettes contain a refillable tank whereas the closed systems are either disposable or a prefilled cartridges can
be added to such devices. (Chen et al., 2016) Juul, Vype and Blu are some of the examples.

Similarly, as per WHO (2020), the Heated Tobacco Products (HTPs) or Heat-no-Burn (HnB) products use a device to heat the tobacco and other chemicals to produce the aerosol. They have been available in the market since 1980. These are the specially designed cigarette-pods or plugs such as ‘heat sticks’ or ‘neo sticks’, which are designed to heat the tobacco to 250 to 300 degrees Celsius compared to the conventional cigarette burning at 900 degrees and producing many toxicants. (Bitzer et al., 2020). Lil Hybrid (Korean tobacco & Ginseng Corporation), Ploom Tech (Japan Tobacco International), Glo iFuse (British American Tobacco) are some of the examples of these Heated Tobacco Products (HTPs). Similarly, Velo, Lyft, Dryft, Zyn, Paz, ZoneX, On!, and Spirit etc. are the chewable (non)nicotine pouches falling in the NGTP categories. The container holds small bite-size pouches which can be placed in the mouth just like the snus or chewing tobacco.

As mentioned above, most of the LMICs continue to focus on the prevention of smoking initiation, albeit with little success. For example in Pakistan more than one thousand children between the ages to 6 to 15 start smoking every day (Ahmed et al., 2008). Very little efforts are underway to help cessation, establishment of cessation helpline at the MoNH (TSFC, 2019), one such case in point. TI in Pakistan has a long history of identifying regulatory snags, diverting public attention away from core issues and profiting out of every opportunity.

**Policy Gaps and Vacuum in Pakistan**

Pakistan has been a signatory to the WHO FCTC for the past almost fifteen years. The framework claims that at least one of the MPOWER policies is preventing almost 5 billion individuals from the harmful effects of tobacco and its products, in 136 countries (Masud et al., 2020). To meet the MPOWER policies Pakistan has comprehensive set of laws and regulations in place. However, enforcement has been a challenge in Pakistan (See, for example Janjua, 2019, Janjua and Naqvi, 2019, Janjua and Naqvi, 2020, Naqvi and Janjua, 2019, Iftikhar and Naqvi, 2019-2020). Moreover, almost all of the policies have exclusively focused on the combustible manufactured cigarettes and the smokeless tobacco (such as naswar/snuss/Gutka etc.) and more prominently the NGTPs have been completely absent from the policy. Local as well as global scholarship, and FCTC points to the need for enactment of regulatory actions controlling smokeless tobacco products (See, for example, Khan et al., 2017, Siddiqi et al., 2016, Savitz et al., 2006, Mehrotra et al., 2019). The first decision regarding the NGTPs was taken by the conference of parties of the FCTC, which differentiated the cigarette sticks from the HnB/HTPs devices (Gruszczynski and Melillo, 2020). This distinction creates ambiguity in the products, as it was not based on the functionality, effect and scientific knowledge and evidence of the products. Literature pivots this distinction on the core concept of FCTC, which is the complete elimination of tobacco and smoking pandemic. HnBs and many other vaping products, smokeless tobacco products, MRTPs and PREPs etc. have since long been promoted by the TI as the products which cause less harm – and therefore promoted to the customers as safe, despite no clear scientific evidence to support these claims. Instead of saving the smokers from harmful effects and preventing the young children (and adults) from initiating smoking, these products continue to gain popularity as “reduced risk products”. Moreover, as highlighted by Gruszczynski and Melillo (2020), dichotomy was created by the FCTC in defining waterpipes as well, in which the waterpipe, per se has been referred to as “apparatus”, therefore delinking it from the tobacco products used in the waterpipe. This segregation provided the policy gap at the point of sale, where the apparatus could be promoted and sold in flashy/golden colours and designs, while restrictions were to apply only on the tobacco products. Turkey has been applauded to became the first country whose labelling laws explicitly requires the health warning
to be placed on the waterpipe, hookah bottles and waterpipes tobacco packages (See, for example Lempert and Glantz, 2018, Jawad et al., 2015).

In Pakistan the policy vacuum and gaps (in existing policy) is complicating the situation and the preventive environment is becoming hazier because of the inclusion of the “economic factor” in the NGTPs. As per the 2021-22 budget announced by the government of Pakistan, Federal Excise Duty (FED) has been enhanced from 65% to 100% for all imported tobacco products (News, 2020). Ironically the E-Cigarettes/Vape products have been added to this list, making them legal to be imported. However, the legal Vendors’ license and other requirements are not very well pronounced nor being implemented. Consequently, a mushrooming of Vape Stores and Hubs in the twin cities of Rawalpindi and Islamabad, besides other provincial capitals and major towns, is a natural outcome.

**Exploitation by the TI**

The dwindling cigarettes sales across the globe and understanding of ill-effects of smoking exacerbating COVID-19 have caused serious drop in sales and profits (Münzel et al., 2020). Despite the known and scientifically proven health detriments, and no known benefits of the NGTPs, TI has been running campaigns, ads, and social media advocacies to attract youth, reassuring health benefits of these products during COVID-19 pandemic (Ramamurthi et al., 2020). The Bureau of Investigative Journalism in a study claimed that TI has specifically been targeting the youth (Chapman, 2021a). Relatively, the countries where the enforcement is weakest have been the easiest targets of TI, and the two countries topping the list in this regard are Kenya and Pakistan (Davies and Chapman, 2021). The ads on social media, YouTube channels, Instagram and Facebook have received estimated $1 Billion funding campaign to run the ads promoting British American Tobacco products Velo and Lyft.

It is important to note that Tobacco Smoke Free Cities project at the Ministry of Health issued an SRO 72(1)/2020 on 30th Jan 2020, banning all online advertising of the tobacco products and point of sale advertising and display of the tobacco products (GoP, 2020). As per WHO (2017), almost all of the NGTPs including E-cigarettes and nicotine pouches are extracted from tobacco and are injurious to lungs, dangerous to health and need to be regulated. Defying the SRO 72(1)/2020, and flouting the laws of the land, British American Tobacco Company is busy polluting the minds of the youth in Pakistan, being a soft, unmonitored and under-enforced tobacco market (Chapman, 2021a, Davies and Chapman, 2021). To curb similar tactics, very recently USFDA ordered four major TI manufacturers to share their online/social media advertisement practices (Hunt, 2021). British American Tobacco has been operating in Pakistan for decades, and has been flouting the laws for an equal duration. Hiring of the social media influencers, producing scores of YouTube videos , promoting their nicotine pouch products, and other NGTPs, has facilitated flooding of the market due to youth attraction and affordability. The aims of this campaign in Pakistan have been to present the NGTPs as “cool” and have been presented in aspirational “glossy youth focused advertising campaign” (Chapman, 2021a). Secondly, social media influencers have been paid heavily to promote these products on Instagram. Instagram and Facebook banned promoting NGTPs (E-Cigarettes, nicotine pouches and HTPs/HnBs etc.), and weapons through influencers since 2019 (Graham, 2019). TI, however, continues to flout the international as well as local/national regulations in Pakistan.

TI is also sponsoring music and sports events, including F1 e-sports tournament that was streamed live on the YouTube and was easily accessible to the children to watch not to mention the youth (Chapman, 2021a). Finally, the TI distributed international free samples to the Pakistani youth and children, attracting smokers and non-smokers alike (Chapman, 2021b).
International TI is generally targeted for flouting the domestic laws, as they generally do not make such ingresses in the Western and their home countries. However, the domestic tobacco industry is no less defiant of the laws. In one such widely covered event, at the height of the COVID-19, a local Senator manufactured cigarettes labelled and labelled the product “Senate House”. The packing were designed without any GHW/PHW, (ironically) containing the “Government of Pakistan” emblem on the top and Senate House written below, and the free samples were distributed among the members of parliament in the state lodges (Haider, 2020). This act alone broke scores of domestic as well international obligations – however the event fell went unnoticed asfar the regulatory and policy circles are concerned.

Such disturbing state of affairs needs immediate and stern policy intervention, not only to control the spread of the tobacco products, but to limit and end the import and ingress of NGTPs. Some recommendations are being made here for consideration by the relevant stakeholders and policy circles, which will help Pakistan meet the national and international obligations in tobacco control regime.

**Recommendations & Conclusion**

As mentioned above, many tobacco control policies have been reactionary and the implementation is lagging. TI is taking full advantage of the situation and continues to make ingresses, flout laws and make violations with impunity. Although civil society and support from the Ministry of Health, as well as foreign partners such as Bloomberg philanthropies and The Union etc. tobacco control has been progressing. There is a serious policy void as far as the NGTPs is concerned, and TI continues to exploit the gaps in existing policies. For such an effort tobacco control regime needs to support a broad-based multi-sectoral policy which could ensure regulation of NGTPs, putting an end to the rampant expansion and youth addiction. Following recommendations are therefore bring made:

1. The final goal of the tobacco control efforts is complete ban on all tobacco products and NGTPs, however, TI continues to exploit the gaps in existing policies and the policy vacuum. There is an urgent need to plug these gaps and develop a comprehensive multi-sectoral policy. NGTPs need special focus in the policy to restrict the rapid ingress in society.
2. Youth and children have always been the focus of the TI promotion campaigns argue Iftikhar and Naqvi (2019-2020). To replace aging and dead customers, TI continues to tactfully recruit youth, who would continue to buy the tobacco products for many decades from now. In Pakistan there is an urgent need to start mass media and social media campaigns to discredit TI narratives and attractive enticing campaigns. It is important for Pakistan to have healthy youth to increase economic productivity and this is possible by preventing youth from becoming easy prey to TI. Moreover, TI continues to target the poor, uneducated and marginalized groups in the rural areas. TI activities and promotion tactics in rural and far-flung areas needs to be monitored carefully.
3. NGTPs also tend to be promoted by the TI as the replacement therapy. Nicotine craving is considered as a factor in quitting, albeit with no clear scientific evidence (cf DiFranza and Wellman, 2005, Kozlowski and Wilkinson, 1987). However, in many cases the nicotine replacement users tend to become dual (tobacco as well as nicotine replacement) addicts. There is a requirement to keep this aspect in mind during admittance policy formulation.
4. TI has been innovative to add popular flavours in NGTPs to make them more appealing for the youth and new starters (Hoffman et al., 2016). Flavours act as “silent aspect of tobacco marketing” (Camenga et al., 2018) motivating and promoting agents, and ban on flavours has been scientifically observed to have a positive impact on reduction in smoking (Courtemanche et al., 2017). This aspect needs special attention in the policy
formulation process, as similar issues also existed in Sheesha smoking, but outright banning has worked in usage reduction and in some cases completely stopping the ban.

5. The permission to import cigars or other NGTPs has economic implications and needs serious policy regulation beyond the import duty imposed by the government. TI and the importers have clearly demonstrated the import of tobacco products and other NGTPs rampantly. As mentioned above as well, the enforcement is weak link in tobacco control regime. There is an urgent need to regulate the import of NGTPs to prevent the youth addiction and rapid flooding of the market with these unregulated products.

6. Despite existing ban on advertising, British American Tobacco has been recruiting social media influencers and running YouTube channels to promote their products. Immediate and comprehensive ban is necessary to prevent promotion and marketing of NGTPs, should we hope to prevent our youth from addiction to these products.

7. Should the import of NGTPs be allowed, the existing laws/policies related to the GHW/PHW and other policy restrictions must apply (such as ban on underage sale etc.).

8. Should the Track-n-Trace be implemented in Pakistan, tax stamps need to be necessitated for all NGTPs.

9. Article 12 of the FCTC necessitates public awareness and communication through multiple channels to educate the masses (WHO, 2004). Countries have been proactive in implementing laws which are culturally and socially healthy for the masses. For example, in the Western countries the stringent laws prevent TI the freedom of operation as compared to the LMICs (Doku, 2010). Policy formulation must focus on the domestic health and prioritize well-being above the economic considerations.

Although the tobacco control laws exist, but with the arrival of NGTPs and the speed with which these have been promoted and marketed to the youth is worrying, necessitating an urgency in policy development. This paper has highlighted the issue of NGTPs in absence of the regulatory policies and argued that these products continue to endanger the health of our youth through nicotine addiction. E-cigarettes and other NGTPs attract the youth who may otherwise not smoke regular cigarettes. Singh et al. (2020) posited that between 2017 and 2018, past 30-day use of nicotine e-cigarettes among high school seniors nearly doubled, from 11% to 21%, which is the largest recorded increase for any adolescent use in more than four decades in the USA. No research has been done on this issue in Pakistan, however, the likely trend will be revealing for many health and tobacco policy advocates.
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