HPA 301 W

Tobacco Master Settlement Agreement

Fall ‘01
Executive Summary

On November 23, 1998, 46 states and several major tobacco companies settled the states’ Medicaid lawsuits for recovery of tobacco related health costs. The settlement contained no specifications for allocation of the money. North Carolina is affected two-fold by tobacco. First, tobacco farming and processing compromise a large portion of the state economy. Second, the state tobacco use rates are higher than the national average and cost the state billions annually in health costs. North Carolina has been debating whether its citizens are best served by spending the $327.1 million dollars currently received on tobacco prevention or by providing economic aid to tobacco farmers.

The Campaign for Tobacco-Free Kids proclaims that the MSA money should be used to fund smoking prevention programs for America’s youth, while the Golden Leaf Foundation maintains that the money is needed to provide economic aid to struggling tobacco farmers and tobacco-dependent communities.

The smoking rate in North Carolina is 2% above the national average, and the state suffers the 14th highest rate for smoking related deaths. Tobacco communities in North Carolina are facing a number of challenges that threaten the economic well being of 12,095 tobacco farmers and 255,000 tobacco industry employees.

Since the 1980’s, smoking rates in North Carolina have not dropped as considerably as other states, and still remain above the national average. Simultaneously, decreased quotas, cigarette price hikes, and the shift to foreign cigarette manufacturing have resulted in increasing economic difficulties for tobacco farmers.
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Part A: Define the Issue

Problem

On November 23, 1998, 46 states and several major tobacco companies settled the states’ Medicaid lawsuits for recovery of tobacco related health costs. The settlement contained no specifications for allocation of the money. North Carolina is one state that is affected two-fold by tobacco. First, tobacco farming and processing compromise a large portion of the state economy. Second, the state tobacco use rates are higher than the national average and cost the state billions annually in health costs. Since the states passed the Master Settlement Agreement (MSA), North Carolina has been debating whether its citizens are best served by spending the $327.1 million currently received on tobacco prevention or by providing economic aid to tobacco farmers.

Extent

According to the 1997 census, there are 12,095 tobacco farmers in North Carolina, and 255,000 in North Carolinians are employed in the tobacco industry. Tobacco is a major contributor to the state’s economy and tobacco farming occurs in 82 counties (1). North Carolina grows 2/3 of the tobacco grown in the United States. Together, tobacco manufacturing, processing, and farming constitute between 5 and 6% of the gross state product. Farm sales total $1 billion annually and North Carolina’s tobacco economic impact is over $7.0 billion (21).

Yet tobacco communities in North Carolina are facing a number of challenges. Along with the lawsuits have come additional federal cutbacks in tobacco allotments (the right to grow tobacco), a decline in cigarette exports, and an increase in domestic cigarette prices. The farmer’s portion of the tobacco dollar continues to fall.
Of the over 7 million North Carolinians (22), twenty-five percent smoke. This rate is 2% above the national average. Youth smoking rates are also above average. Thirty-eight percent of North Carolinian 9th-12th graders use tobacco products as compared to 33% nationwide (9). The cost of tobacco use in North Carolina is over $2.1 billion annually and smoking accounts for 40% of all preventable deaths. Nationally, the state has the 14th highest rate for smoking related deaths (9).

Public Policy

Attorneys general from 46 states filed lawsuits in state courts against the tobacco industry. In June 1997, the Attorneys general presented a settlement proposal to settle all pending class-action lawsuits brought by the states against the industry. This agreement, while winning monetary compensation for state health care costs, also forbade future legislative action from states, cities, towns, counties, agencies, or other subdivisions of the states concerning the specified issues stated in the settled suits.

Issue Definition

The MSA settlement allows the states to distribute the money in any manner that they deem appropriate. This means that the North Carolina has total control of the $327.1 million allocation among their constituents (15). Advocates for stakeholder organizations must now persuade the states that the distribution of MSA money to their group would be a valuable investment.

Part B: History

Emergence

On March 29, 1994, in New Orleans, the LA. Castano case began. This 60-attorney coalition filed what would become the nation's largest class-action lawsuit.
Plaintiffs charged that tobacco companies hid their knowledge of the addicting qualities of tobacco and sought retribution for Medicaid funds spent on treating tobacco-related illnesses.

After four years of litigation, on November 23, 1998, 46 states and several major tobacco companies, namely, Phillip Morris, R.J. Reynolds, Brown and Williamson (B&W), Lorillard, Ligget Group, Commonwealth Brands, and U.S. Tobacco reached a Master Settlement Agreement (MSA). Final Approval of the agreement required State Specific Finality, or 80% of the settling states’ courts approving the agreement, and this occurred in late 1999 (19). Each individual state became eligible to receive payment allocations after both State Specific Finality and Final Approval occurred, and the tobacco companies made the initial payment of $2.4 billion to be distributed to the states on January 10, 1999 (19). With no restrictions for states on distribution, each state distributed the money in different ways to different organizations as they believed was most appropriate.

Chronology

02/17/1995: US District Judge Okla B. Jones rules that the class action case may proceed.

02/1996: National Center for Tobacco-Free Kids, which will incorporate “Campaign for Tobacco-Free Kids,” is given $30 M for its June launch.

03/20/1997: Liggett Tobacco and 22 states settle lawsuits. Liggett admits smoking is addictive and can cause cancer. It agrees to turn over documents (2).

09/17/1997: President Clinton and Congressman McCain develop a legislative alternative called the McCain Bill to the proposed tobacco settlement. This bill suggests that Congress work on sweeping legislation that first and foremost
reduces teen smoking; second, gives FDA control of nicotine; and third, penalizes the industry if teen smoking rates don't drop (2).


12/18/1998: Flue-cured tobacco receives an 18% quota cut.

08/11/2001: National Conference of State Legislators report, "Health Programs Benefit from Tobacco Money," finds only 5% of state tobacco settlement monies go to tobacco control. They find that 36% went to health services and long-term care (10).

Trends

Access

As of fiscal year 2000-2001, North Carolina had allocated no MSA money to tobacco prevention programs. It has set aside $5 million of MSA money for health care for 2002, some of which may be used for tobacco prevention programs (11). Apart from this $5 million for health care from MSA funds, the state does not appropriate any money to tobacco prevention or control programs. From federal and national sources, North Carolina tobacco prevention programs receive $1,798,724 from the CDC Office on Smoking and Health and $750,000 from the American Legacy Foundation. The state operates at 6% of the CDC Best Practices recommended lower estimate funding level (6).

Alternatively, North Carolina has allocated 75% of its MSA money for fiscal year 2000-2001 for providing assistance for tobacco growers and economic development in tobacco dependent communities (16). Fifty-percent of the money was deposited in a fund
to help tobacco-affected areas and will be distributed through the Golden Leaf Foundation. The General Assembly then distributed another 25% of the MSA money for placement in a Tobacco Trust Fund for tobacco farmers, quota holders, and others in tobacco-related businesses (21).

In addition to money from Part I of the Master Settlement agreement, North Carolina tobacco farmers also have access to $2 billion dollars through Phase II of the Master Settlement agreement. Phase II was a private agreement between cigarette companies and tobacco farmers, and it provides direct money to tobacco farmers and allotment holders. This money will be distributed over a 12-year period (21).

**Costs**

In North Carolina, personal health care costs have risen by 11% over the past 20 years, from $4,205,000 in 1980 to $27,327,000 in 1998 (13). Health care expenditures related to smoking continue to rise, costing the nation more than $85 million in direct medical expenditures, $40 billion in lost productivity, $500 million in damage and loss from cigarette-related fires, and $4 billion in smoking related cleaning and maintenance expenses (14).

Decreasing tobacco demands in the United States, coupled with fierce competition from cheaper, foreign companies, the tobacco farmers’ portion of the retail tobacco dollar has continued to fall. The farmers’ received 7 cents of the tobacco dollar in 1980, compared to a mere 2 cents of the tobacco dollar in 1998 (20). Many tobacco farmers are struggling to stay in business.
Quality

When properly funded, studies by the Campaign for Tobacco-Free Kids show that tobacco prevention programs substantially prevent tobacco access for underage youths and reduce tobacco use by current smokers (3). These studies highlight what the Center for Disease Control and Prevention (CDC) consider adequately funded success programs in California, Florida, and Massachusetts that have reduced tobacco consumption and decreased illegal youth access to tobacco (24). However, North Carolina’s allocation of money for tobacco prevention does not meet the CDC funding guidelines for effective tobacco prevention and cessation programs (14).

As their annual income drops, more and more tobacco farmers are going out of business. Since 1964, the number of North Carolina tobacco farmers has dropped from 87,000 in 1964 to 12,000 in 2000, an 86% reduction (21). Reductions in tobacco quota have led to devastating monetary cuts, which may cause even more farmers to lose their financial footing (18).

Part C: Identify Stakeholders

North Carolina has total control of the $327.1 million allocation among their constituents (15). Advocates for stakeholder organizations must now persuade the states that the distribution of MSA money to their group would be a valuable investment.

Stakeholder #1: Campaign for Tobacco-Free Kids

What is their position on the issue?

The Campaign for Tobacco-Free Kids is an organization launched to protect children from tobacco addiction and exposure to secondhand smoke. It advocates public policy change at federal, state, and local levels to protect children from tobacco (23).
They support using the settlement money to fund smoking prevention programs for America’s youth.

*What are the stakeholder’s resources?*

The Campaign for Tobacco-Free Kids currently partners with over 130 organizations including health, education, medical, civic, corporate, youth, and religious organizations that are dedicated to reducing tobacco use among children and adults. Their funding includes donations from organizations such as the American Cancer Society, American Lung Society, the American Medical Association, the Kaiser Family Foundation, as well as independent donors (23).

*What actions did the stakeholder take bring this issue to government or politics?*

This organization presents the issue of youth tobacco prevention to the government in a variety of ways. Their two-tiered advocacy department is responsible for achieving policy change. The federal advocacy team works with partner organizations, the administration, and members of Congress to implement effective legislation to protect youths from tobacco. The state advocacy team provides strategic and technical assistance to local tobacco control organizations on policy issues and assists them in mobilizing their efforts (23). Secondly, the Campaign’s communications department has created a series of print advertisements that inform the voting public of legislature’s actions concerning tobacco prevention at both the state and federal level. Finally, the Campaign’s research department publishes numerous reports in order to
inform and influence legislatures about their position on tobacco-related topics and issues.

What success have they had?

The organization has received numerous awards for both their research and advocacy programs, including the American Medical Association’s Chrystal Medallion Award. They have successfully worked with states to pass clean indoor air laws and were vital in achieving the Washington tax initiative (7).

Stakeholder #2: The Golden Leaf Foundation

What is their position on the issue?

The Golden LEAF Foundation supports the distribution of MSA funds to provide economic impact assistance to economically affected or tobacco-dependent regions of North Carolina (5). Their Foundation will provide education assistance, job training and employment assistance, economic hardship assistance, and funding for scientific research programs. The Foundation put its funds into agriculture. “We're looking at niche crops and niche markets for the small farmers," said Valeria Lee, the Foundation's president. "We're putting about 40 percent of our money into agriculture (4).”

What are the stakeholder’s resources?

The Foundation has currently received $164,770,000 in payments as a result of the MSA, and over the next 25 years will receive approximately $2.3 billion in
"principal" from the State of North Carolina as a result of the settlement (5). The average annual payment of $82 million dollars is expected.

What actions did the stakeholder take bring this issue to government or politics?

The Golden LEAF Foundation was founded in 1999 by the State of North Carolina.

What success have they had?

The Golden Leaf Foundation has used the MSA money to successfully award $7.7 million in grants to help tobacco farmers trying to find new ways to make money. For example, they allocate money for farmers who want to grow hot peppers for use as insecticides. Other uses of grant money include scholarships for students in tobacco-dependant communities and agritourism (5).

Part D: Trends

Trends

Smoking Rates in North Carolina

According to the American Lung Association Epidemiology and Statistics Unit, the median prevalence of regular cigarette smoking in the United States was 27.4% in 1984 and 22.7% in 1999 (12). When compared to other states, the smoking rate in North Carolina has consistently remained above the national median. As Figure 1 in the appendix shows, adult smokers in North Carolina have gradually dropped from 28.6% in 1984 to 25.2% in 1998. The greatest drop occurred between years 1990 and 1991, when
the adult smoking rate dropped 4.1% from 28% to 23.9% (12). However, rates increased after that year, and returned to a higher, more consistent level around 25%.

*U.S. Tobacco Industry Trends*

Over the past twenty years, tobacco companies have increasing shifted to foreign manufactured cigarettes that typically contain much less U.S. tobacco than those made for sale in the United States (8). This shift has decreased tobacco company reliance on U.S. exports, and U.S. farmers are being hurt by reduced use of American tobacco in cigarettes. Use of foreign tobacco has caused a 40% reduction in exports since 1996 (17).

In addition, sharp increases in the price of cigarettes sold in the United States have caused recent declines in U.S. cigarette consumption. Since the beginning of 1998, the average price of pack of cigarettes has doubled (17). This has resulted in decreased purchase intentions by tobacco companies, and decreased quotas for farmers.

Not only are tobacco manufacturers using less American tobacco and tobacco companies buying less U.S. tobacco, but also the growers are receiving a smaller and smaller piece of the pie. U.S. growers used to receive roughly seven cents of every dollar spent on cigarettes in the United States, but they now receive only two cents or less (Figure 2) (8).
Appendix

Figure 1

North Carolina Smoking Rates per Year as a Percent of the Population

<table>
<thead>
<tr>
<th>Year</th>
<th>Smoking Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1984</td>
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</tr>
<tr>
<td>1985</td>
<td>27.0%</td>
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</tbody>
</table>
Figure 2

The Distribution of the Tobacco Dollar in 1999

Where Tobacco Money Went - 1980

Where Tobacco Money Went - 1998
References


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Campaign for Tobacco-free Kids. 24 Jan. 2002