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## Union Women, the Tobacco Industry, and Excise Taxes:

### A Lesson in Unintended Consequences

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### Abstract

Between 1987 and 1997, the tobacco industry used the issue of cigarette excise tax increases to create a political partnership with the Coalition of Labor Union Women (CLUW), a group representing female trade unionists in the U.S. This paper documents how the industry created this relationship and the lessons tobacco-control advocates can learn from the industry's example, in order to mitigate possible unintended consequences of advocating excise tax increases

In 1998, under the terms of the Master Settlement Agreement, the tobacco industry began making documents produced in litigation available publicly. Currently, approximately 50 million pages are available online, including substantial documentation of the industry–CLUW relationship. For this study, a comprehensive search of these documents was conducted.

The tobacco industry encouraged CLUW's opposition to excise tax increases by emphasizing the economic regressivity of these taxes, discussing excise taxes generically to deflect attention from cigarettes, and encouraging opposition to earmarking cigarette taxes to pay for specific programs. In addition, CLUW received at least \$221,500 in financial support between 1987 and 1997 and in-kind support for its conferences, membership materials, and other services.

Excise tax increases, if pursued without considering the impacts they may have on low-SES populations, may have unintended consequences. In this case, such proposals may have helped to create a relationship between CLUW and the tobacco industry. Because excise taxes are endorsed in the Framework Convention on Tobacco Control, tobacco-control advocates must understand how to build relationships with low-SES populations and mitigate potential alliances with the tobacco industry.

### Introduction

Tobacco-control advocates are concerned about class-based disparities in smoking prevalence.<sup>1</sup> In 1974, the percentage of people with high school diplomas smoking 25+ cigarettes per day (27.8%) was only slightly higher than that of people with college degrees (27.3%). By 2006, although prevalence was down in both groups, the percentage of those with high school diplomas (15.5%) who continued to smoke was substantially higher than it was for those with college degrees (6.5%). Addressing such class-based disparities in smoking prevalence may require tobacco-control advocates to work in coalition with groups trusted by working-class people, including labor unions.<sup>1</sup>

One area in which such alliances may be important is in seeking cigarette excise tax increases, which have been shown to be an effective strategy for reducing smoking prevalence.<sup>2</sup> Although

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such taxes are a potent tobacco-control tool, excise taxes affect different populations in different ways. People in low-SES groups—those with low incomes, low educational attainment, or working-class jobs—are most likely to smoke, and thus more likely to pay the tax. Because the tax on a cigarette pack is the same regardless of income, such taxes are considered regressive because the poor pay more as a percentage of their income.

By advocating excise tax increases without regard to their economic effects, tobacco-control advocates may be creating an opening for the tobacco industry to use the regressivity issue to form partnerships with groups representing low-SES people. This unintended consequence may, in turn, make it more difficult for tobacco-control advocates to work with groups representing low-SES people, especially in policy arenas. Without this partnership, policies such as smoke-free worksites and excise taxes may be more difficult to create.

## Background

### The Coalition of Labor Union Women

One example of such an unintended consequence took place between 1987 and 1997, when the tobacco industry forged a relationship with the Coalition of Labor Union Women (CLUW), an organization representing working-class women's interests in Washington DC. CLUW was founded in 1974 to "unify all women in a viable organization to determine our common problems and concerns and to develop action programs."<sup>3</sup> As an ally of tobacco control, CLUW could have provided a pathway for reaching low-SES women; as an ally of the tobacco industry, CLUW opposed two types of legislative initiatives that would help low-SES women quit smoking: smoke-free worksites and excise tax increases.<sup>2</sup>

In the decade in which it had a relationship with the tobacco industry, CLUW received at least \$221,500 in funding, plus in-kind support.<sup>4</sup> Although this relationship was initially focused on blocking smoke-free-worksites legislation, by 1990 the focus had shifted to contesting excise tax increases.<sup>5–8</sup> Although the percentage of the overall CLUW budget this represented is unknown, it was enough to engage CLUW's interest in these two issues, neither one of which is mentioned now on the organization's website. This paper will document how the industry created this political relationship, and the lessons tobacco-control advocates can learn from the industry's example in order to mitigate possible unintended consequences of advocating excise tax increases.

### The Regressivity Issue

In the U.S., federal, state, and some local governments have the power to levy cigarette excise taxes. In 2008, the federal tax on cigarettes was \$0.39 a pack, while state taxes ranged from a low of \$0.15 (Missouri) to a high of \$2.75 (New York) per pack, with an average cost of \$1.18.<sup>9</sup> Increases in the excise tax on cigarettes generally lead to an increase in the price of cigarettes, and an increase in the price of cigarettes appears to lead to a reduction in smoking prevalence.<sup>2,10</sup> Although tobacco companies can absorb some of the tax increase by lowering their retail prices, the consumer generally experiences some or all of the price change.<sup>11</sup>

Tobacco-control advocates argue that cigarette excise taxes are not regressive when considered on a population basis, because the lowest-income smokers are most likely to quit in response to tobacco tax increases. According to economic models, the lowest-SES smokers will pay less tax as a group because this population likely will have the largest number of quitters.<sup>12</sup> This point may be of little comfort to individual smokers whose addiction or lack of interest in quitting prevents them from doing so.

Thus, although tobacco-control advocates can present cigarette excise tax increases as "win-win" policies in which governments raise revenue and prevalence is reduced, tax increases as

they are experienced by smokers, and as they play out in policy arenas, are more complicated. Groups favoring progressive tax policy emphasize the unfairness of excise tax increases, and the tobacco industry has used this line of argument to form alliances with some of these groups.<sup>13</sup> Through these groups, the industry has worked to change the debate from the effects of cigarettes to the person paying the cigarette tax.<sup>14</sup>

This more complicated view of excise taxes raises a number of questions, such as why smokers are the only ones paying for government services enjoyed by all and why activities engaged in primarily by low-SES people are singled out for taxation. These questions provided an opening for the tobacco industry to create partnerships with groups advocating for social and economic justice, such as CLUW. Thus, a policy designed to help low-SES women might have had the unintended consequence of facilitating a relationship between an organization designed to represent working-class women and the tobacco industry, a goal not sought by tobacco-control advocates.

## Methods

More than 50 million pages of tobacco industry documents, produced as a result of litigation in the U.S., are accessible through the Legacy Tobacco Documents Library at the University of California at San Francisco ([legacy.library.ucsf.edu](http://legacy.library.ucsf.edu)) and Tobacco Documents Online ([tobaccodocuments.org](http://tobaccodocuments.org)). Research for this paper included the review of an extensive set of documents compiled in previous work on CLUW.<sup>5</sup> In addition, databases were searched again using the keywords *CLUW and Tax\**, and *'Coalition of Labor Union Women' and Tax\* not CLUW*. In all, these searches retrieved 728 documents, 45 of which provided important details on CLUW's involvement in cigarette tax policy discussions and augmented the earlier document file.

The documents were organized chronologically, so that the process by which the relationship was developed would be clear. The documents were then analyzed to determine how the industry created and managed its relationship with CLUW.

## Results

### Building the Relationship

In 1990, Tobacco Institute president Samuel Chilcote commented, "On taxes, our battle plan was simple. Change the debate and broaden the issue."<sup>15</sup> The Institute recognized that labor groups could help broaden the issue by ensuring that cigarette taxes were not considered separately, but were discussed as one of a broad category of consumer excise taxes, including gasoline and alcohol, which were also regressive. The Institute used CLUW to argue that the regressive tax increases were unfair to working women. As Chilcote explained:

We have stayed behind the scenes, fighting a guerrilla war, in the tax area... we... nurtured a number of labor and liberal allies like the Citizens for Tax Justice, the Economic Policy Institute, the Coalition of Labor Union Women and others. We breathed life into many of them. With others, we took excise taxes from the bottom of their agenda to the top... We worked with our friends to support the release of studies, editorials, press briefings and testimony against regressive excise taxes.<sup>15</sup>

### The Labor Management Committee

To facilitate work with outside groups like CLUW, the Tobacco Institute established the Tobacco Institute Labor Management Committee (LMC) in 1984.<sup>4,5</sup> The LMC focused on two issues—excise tax increases and indoor smoking restrictions<sup>16</sup>—and its goals included lobbying elected officials, discouraging liberal and labor groups from taking anti-tobacco

positions, and building support for industry positions among organized labor.<sup>17</sup> The LMC was composed of the Tobacco Institute and five unions representing tobacco industry employees. The Institute provided the LMC's entire budget and used it as a mechanism for funneling money to groups whose agendas it wanted to influence.<sup>4</sup>

Although the Institute considered Citizens for Tax Justice its chief ally on excise tax issues, it also recruited groups focused on specific labor constituencies, such as CLUW.<sup>18</sup> Building coalitions with groups like CLUW, however, was not always easy for the tobacco industry. As noted in the Institute's 1991 budget plan:

[Our] allies' greatest strength—independence—can be a limit on the effectiveness of many of these coalitions on our issues. Allies may not agree or even have an interest in all industry issues, and may not be willing or able to assist in all ways requested... In order to attract allies and maintain their interest in industry issues, The Institute must become more involved in responding to requests for assistance on non-tobacco concerns, and in identifying and offering assistance on some issues before we are asked.<sup>19</sup>

The Institute was quite specific about what it expected from CLUW.

The Coalition of Labor Union Women (CLUW), which has agreed to work with us on several excise tax projects—including a study, video and briefings—sought our help with the production of membership recruitment and educational information kits. Where appropriate, excise tax and indoor air quality messages will be inserted in the materials.<sup>20</sup>

In a May 1989 briefing for Ralph Angiuola, the Chair of the Executive Committee of the Tobacco Institute, the staff outlined how they worked with labor groups, including CLUW:

When labor support groups like the A. Philip Randolph Institute... the Labor Council for Latin American Advancement... and the Coalition of Labor Union Women... testify... write editorials... and send letters to their congressmen... Institute staff decides when to push the button... and then works with our PR counsel to produce the materials that go forward.<sup>21</sup>

One important set of materials was a series of studies opposing excise taxes because of their regressive nature. Each of the studies was to be produced by a different Institute-supported group. According to the Institute, "We plan to work with [organized labor] through the Labor Management Committee to support and promote studies examining the impact of excise taxes on their members."<sup>14</sup> It went on to note, "When [CLUW's] is completed, we will work with them to ensure that the study is placed with key lawmakers and the media."<sup>14</sup>

In 1990, the Institute funded consultants to write CLUW's report on excise taxes, *Women and Children First*.<sup>6,22,23</sup> CLUW was listed as the sponsor of the study; there was no mention of Institute funding or involvement.<sup>24</sup> The report discusses excise taxes in general, combining cigarette taxes with those on gasoline, telephone calls, beer, wine, liquor, airfare, and "more than 10 other products." To counter the argument that the majority of women pay no tobacco taxes at all, the report changed the subject by emphasizing that, "The issue that confronts legislators and public policy makers at all levels of government is not whether they like or dislike products like these, but how best to finance the public goods and services that we all enjoy."<sup>24</sup>

CLUW was to release the report on May 23, 1990 at a press breakfast, and the report was to be sent to all members of Congress. Joyce Miller, CLUW president, was to write op-ed pieces for major newspapers.<sup>25</sup> CLUW invited LMC members to speak about taxes at its conferences.<sup>26</sup> After the report came out, the Institute:

...continued to monitor the press coverage of the... CLUW tax study... A brochure based on the CLUW tax study progressed to blueprint in June. When completed, the piece will be distributed as an educational tool to CLUW members; it also will be used to communicate with lawmakers and the media concerning CLUW's opposition to regressive tax policy.<sup>27</sup>

### Earmarking and the Clinton Healthcare Plan

In addition to its focus on regressivity, the Institute wanted to avoid the earmarking of excise taxes for specific purposes. As noted in a 1989 Institute presentation:

You may recall from ... the excise tax advertising project that the public appears to overwhelmingly support earmarked taxes to pay for specific government programs. The public feels it has a better sense of 'control' when taxes go to a specific project, rather than into a giant pot to be divided by elected officials.<sup>14</sup>

As noted in the Institute's 1991 budget plan, "The battle against consumer excise taxes is more challenging when the proposed excise tax is dedicated to a 'good' program."<sup>19</sup> Part of the plan for countering these taxes was to, "Reposition the contention that 'sin' taxes on select products should be used to fund 'good' programs by shifting the focus to the individual who is actually paying the tax and away from the taxed product."<sup>19</sup>

Susan Stuntz, a vice president of the Tobacco Institute, was particularly concerned in 1991, that:

Our traditional allies of progressive tax issues are 'soft' on excise taxes to pay for health care largely because they are committed to increased spending. Further, the health care issue is critically important to several constituencies ... although the labor movement [has]... stood firmly against excise taxes as a mechanism for raising general revenues, many of these groups view health care financing as a fundamentally different issue.<sup>26</sup>

For this reason, it was critical to the Institute that the CLUW study include mention of the earmarking issue and Stuntz told the Institute's executive committee that, "We will work with them [CLUW] to ensure that there is a separate section on earmarking in their research... and that it is promoted when the work is released."<sup>28</sup>

When the Clinton healthcare plan was proposed in 1993, the Institute encouraged CLUW to oppose the plan because of its funding mechanism, which was a substantial increase in the cigarette tax. The Institute was a major sponsor of a meeting on women's health care that took place in Cleveland in 1993. James Savarese, an Institute-funded consultant, "worked with ... CLUW and other sponsors to develop materials, select speakers and develop the schedule."<sup>22,29</sup> Not surprisingly, the result of the conference was "a telegram to the first lady listing women's demands for healthcare reform and including progressive financing as a criteria for reform."<sup>30</sup> Gloria Johnson, then CLUW president, continued this message when she submitted testimony to the U.S. Senate. While complimenting the President on his effort to ensure universal coverage, she wrote, "The financing of health care reform may be the most difficult aspect of developing a plan. Yet, when it comes to fairness and equity, it is also the single most important component of any reform package."<sup>31</sup>

### Discussion

At the website of the Coalition of Labor Union Women ([www.cluw.org](http://www.cluw.org)) as of September 2008, there was no mention of excise taxes; the focus was on health issues, organizing, and wages. Excise taxes also did not appear to be an issue for CLUW prior to its relationship with the tobacco industry. But for nearly a decade, the Tobacco Institute, working through the LMC,

secured CLUW's support for the industry position on excise taxes. It was able to do so not just by using a financial incentive, but also by approaching CLUW through a trustworthy channel, the LMC, and by emphasizing the regressivity of all excise taxes, including those on cigarettes.

Tobacco-control advocates can learn from the industry strategy. Although cigarette tax increases are effective policy instruments for reducing smoking prevalence, advocates who pursue such increases must consider the opportunities that proposed increases give the tobacco industry. By emphasizing the regressivity of such increases, the industry improves its ability to build coalitions with trade unions, progressive tax organizations, and groups representing other low-SES populations. These organizations, who might ally with public health advocates on issues such as healthcare access, might instead become allies of the tobacco industry.

By studying tobacco industry behavior, however, tobacco-control advocates can pursue strategic approaches that will help them attract allies representing low-SES populations. First, earmarked cigarette taxes are more popular with the public than non-earmarked ones. Advocates should be specific about how the cigarette taxes will be spent, including support for cessation services, tobacco use reduction programming, children's health, or other public services that lower-SES people can see will have an impact on their lives. Simply raising taxes to reduce prevalence is not a sufficient strategy, and advocates should be clear on this point when asked to support increases.

Second, the tobacco industry has consistently kept cigarettes "bundled" with other consumer goods and discussed consumer excise taxes as a single policy initiative. Tobacco-control advocates must be aware of this language and be careful to separate cigarette tax increases from goods such as gasoline, clothing, or food. All excise taxes are not the same; how the issue is framed and packaged is important in influencing its success.

Finally, there is room for tobacco-control and other health advocates to work with organizations such as CLUW, but it will require supporting some of the other priorities of those organizations. Even in 1990, some members of CLUW were uncomfortable with the relationship with the tobacco industry. The Strategy Group, a consulting firm working with the Institute on its tax program, stated that their report to CLUW seemed to be well received, "despite expressions of concern from one particularly anti-smoking member from California."<sup>23</sup> Certainly on the excise tax issue, tobacco-control advocates can take a page from the Tobacco Institute and be willing to back efforts to make the tax system more progressive.<sup>14</sup> Such efforts will help to facilitate political coalitions that can avoid the negative unintended consequences of excise tax increase efforts and improve the health of low-SES women.

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