

**The Regulatory Impact Analysis Must Consider the Benefits of the Likelihood that the Regulated Companies will Pass the Costs of Compliance on to Smokers, which Will Raise the Cost of the Regulated Products, thereby Reducing Consumption and Improving Health**

Docket No. FDA-2014-N-0189

Hai-Yen Sung, PhD  
Professor of Health Economics

Wendy Max, PhD  
Professor of Health Economics

James Lightwood, PhD  
Professor of Health Economics

University of California San Francisco

July 15, 2014

**The U.S. tobacco companies have a long history of passing increased costs through to consumers**, as recently evidenced by the large price increase following the Master Settlement Agreement (Alamar, Mahmoud, and Glantz, 2003). The companies also often increase wholesale prices concurrently with excise tax increases by more than the amount of the tax increase to maintain revenue streams in the face of price-induced declines in consumption (Sung, Hu and Keeler, 1994; Keeler and Hu et al., 1996; Chaloupka and Cummings et al., 2002; Hanson and Sullivan, 2009; Sullivan and Dutkowsky, 2012).

The required pre-market application, warning labeling, and point-of-sale advertising in the FDA proposed “deeming rule” will impose costs of compliance on the deemed tobacco products including cigars, pipe tobacco, hookah tobacco, electronic cigarettes, and other novel tobacco products. Given the above-mentioned history that tobacco companies often pass increased costs to consumers, these costs of compliance are likely to be passed through to consumers and consequently would result in a reduction in tobacco use. **The Regulatory Impact Analysis of the FDA deeming rule must consider the benefits of such price increases on tobacco use and health.**

An extensive literature has shown that in response to a 1percent increase in cigarette prices, overall cigarette consumption among adults would fall by somewhere between 0.3 and 0.7 percent, with about half of the reduction being attributed to the reduced number of current smokers and half attributed to the reduced number of cigarettes consumed per smoker (Chaloupka and Warner, 2000; Gallet and List, 2003; CBO, 2012). Therefore, these price increases will reduce consumption of the regulated tobacco products, which will, in turn, have positive health effects for the public and even lead some consumers to stop using the regulated products. Because youth smokers alter their overall cigarette consumption more in response to price changes than adult smokers do, with their price elasticity of cigarette demand estimated to be between -0.5 and -1.5 compared with -0.3 to -0.7 for all adults, increased prices will also deter

some youth from initiating use of the regulated products (Ross and Chaloupka, 2004; Decicca and Kenkel D et al., 2008).

**These responses would generate benefits associated with improved health and longevity. The Regulatory Impact Analysis completely ignores these important public health benefits. A fair and balanced analysis must contain these effects. Furthermore, the RIA assumes that the industry will bear substantial costs from the deeming rule, when, based on their past responses to increases in cigarette costs, they are likely to pass all these costs along to consumers and bear none of the costs.**

## References

Alamar B, Mahmoud L, Glantz SA (2003). Cigarette Smuggling in California: Fact and Fiction. Tobacco Control Policy Making: United States, Center for Tobacco Control Research and Education, University of California, San Francisco.  
<http://www.escholarship.org/uc/item/4fv0b2sz> (accessed 25 June 2014)

Chaloupka FJ, Cummings KM, Morley CP, Horan JK (2002). Tax, price and cigarette smoking: evidence from the tobacco documents and implications for tobacco company marketing strategies. *Tob Control*. 2002; Suppl 1:I62-72.

Chaloupka FJ, Warner KE. The economics of smoking. Chapter 29 in: Culyer AJ, Newhouse JP, eds. *Handbook of health economics*. Amsterdam: North-Holland, 1539-1627, 2000.

Congressional Budget Office (CBO) (2012). Raising the Excise Tax on Cigarettes: Effects on Health and the Federal Budget. Washington, DC: Congress of the United States, June 2012.  
[http://www.cbo.gov/sites/default/files/cbofiles/attachments/06-13-Smoking\\_Reduction.pdf](http://www.cbo.gov/sites/default/files/cbofiles/attachments/06-13-Smoking_Reduction.pdf) (accessed 5 July 2014)

Decicca P, Kenkel D, Mathios A, Shin YJ, Lim JY (2008). Youth Smoking, Cigarette Prices, and Anti-Smoking Sentiment. *Health Economics*. 2008;17(6):733-49.

Gallet CA, List JA (2003). Cigarette Demand: A Meta-Analysis of Elasticities. *Health Economics*. 2002;12(10):821-35.

Hanson A, Sullivan R (2009). The Incidence of Tobacco Taxation: Evidence from Geographic Micro-Level Data. *National Tax Journal*. 2009;62:677-98.

Keeler TE, Hu TW, Barnett PG, Manning WG, Sung HY (1996). Do cigarette producers price-discriminate by state? An empirical analysis of local cigarette pricing and taxation. *Journal of Health Economics*. 1996;15(4):499-512.

Ross H, Chaloupka FJ (2004). The Effect of Public Policies and Prices on Youth Smoking. *Southern Economic Journal*. 2004;70(4):796-815.

Sullivan R, Dutkowsky DH (2012). The Effect of Cigarette Taxation on Prices: An Empirical Analysis Using Local-Level Data. *Public Finance Quarterly*. 2012;40(6):687-712

Sung HY, Hu TW, Keeler TE (1994). Cigarette taxation and demand: an empirical model. *Contemporary Economic Policy*. 1994;12(3):91-100.