International Journal of Entrepreneurial Development, Education and Science Research
Vol. 3. No .2 November, 2015 ISSN Online: 2360-9028 ISSN Print: 2360-901X

Government-Business Activities: an Agency Theoretic Analysis of British-American Tobacco Company in Nigeria

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Abstract
The paper contends that government does not only have pivotal roles to play in the health and safety of her citizens but also that these roles have ethical implications. Consequent upon this, it is important that government reviews her business relationship with organizations whose activities and products are antithetical to the health and safe responsibilities of government. The paper adopts qualitative method of data gathering and analysis. It reviews subsisting literature on regulation, ethics, government control over business, business organization control over business and subjects government-business activities between Nigerian Government and British-American Tobacco Company to agency theoretic analysis. It found that asymmetry relationship exists between Nigerian government/BATN to their (Nigerian government/BATN) advantage. The paper recommends that government should take a bold step to prohibit production and consumption of tobacco in Nigeria.

Keywords: *Regulation, Ethics, Agency Theory, Business Control, Nigerian Government*

Background to the Study

Our world has become a global village and this has a lot of implications, positive and negative, for every sphere of life. No state is an island in terms of economic and business enterprises. This implies that there is no state in the world today that can contain and consume all its products without efforts at looking for and or creating market outside its borders. The efforts at creating international frontiers for sales and consumptions of goods and services of any company has multifarious implications ranging from creation of job opportunity, trade by barter to fostering the relationship between two or more countries and many more. On the other hand, the negative implications may include neglect of home market, exploitation of the working class, tax rate that is at variant with tax base, dumping of toxic waste amongst others. Moreover, in a modern democratic economy, businesses cannot function without having to deal with government taxation, guidelines, regulations and policies. Policies are generally intended Sto improve awareness of the business sector, promote and facilitate voluntary initiatives, capacity building, stakeholder management, international standards, convergence and transparency, evaluation and accountability, tax and funding systems in addition to legislation (Albareda, Lozano, and Ysa, 2007). The cost of legislations is generally hard to measure precisely. Whether a regulation provides a net benefit or a net cost is often difficult to determine, Iret (2005). According to (Kary, 2007), socio-legal scholars have increasingly turned their attention to regulatory processes in an attempt to discern how regulations actually operate and what impact they have on business and society. The conduct of business is with respect to Nigerian organizations, shrouded in numerous unethical practices. Or how does one see a government whose responsibility is to provide and safeguard good life, which engages in a business relation whose product, is injurious to the lives of its consumers? Several cases evidencing this assertion are found in manufacturing companies and service oriented organizations (Eluka, 2013). In recent times, corporations have been pressured by non-governmental organizations (NGOs), activists, communities, governments, media and other institutional forces to discontinue production but to no avail. These groups demand what they consider to be responsible corporate practices. Now, some corporations are seeking corporate responses to social demands by establishing dialogue with a wide spectrum of stakeholders.

Government matters in business (Ring; Bigley; Aunno & Khana, 2005). No matter how business and government arrange things between themselves, the nature of their relationship is extremely important, (Dmitry, 2010). However, the extent to which the government intervenes in the private business sector varies from country to country. In practice, however, few firms manage their relationships with governments strategically influence their stay in operation (Watkins, 2003).

The beginning of a new century coupled with the advent of a democratic regime marks an appropriate time to examine the dimension of government and business activities in Nigeria. At a time when globalization seems to press forward relentlessly on a host of fronts, it is worth considering the central features of government and business and the nature of their relationship, and to assess their strengths and limitations (Porter

2002).The main purpose of this research is to investigate ethical issues and government-business activities in British-American Tobacco, Nigeria. Consequently, this study is intended to subject government-business relations to a theoretical analysis, using British-American Tobacco Company as a case study.

Statement of the Problem

The tobacco companies are among the world's most sophisticated and successful marketers espending huge capital in billions of dollars to promote their deadly products and to influence government's regulations to its favour. The World Health Organization Framework Convention on Tobacco Control in 2013 reported that one third of youth experimentation with tobacco occurs as a result of exposure to tobacco advertising, promotion and sponsorship. Through media hype and other means of advertising such as billboards and cyber space, which more often than not emphasize youthful strength, wellness, sex and libido, tobacco companies not only downplay the danger of tobacco consumption but also entise customers and promote addiction. This may be capable of weakening governments' efforts at protecting it citizens against the impacts that tobacco consumption has on public health. Nigeria, as far back as 1992, made a decree banning tobacco smoking. Also, in this democratic dispensation, President Goodluck Jonathan has initiated an excecutive bill against tobacco smoking. These efforts notwithstanding, Nigeria has recorded increase in the number of tobacco users generally and shockingly among young women (Guardian, 2013). What then confronts the Nigerian populace is federal government's neglect of the negative effect of tobacco on human health by giving license to tobacco companies to operate in the country.

The WHO (2013), report reveals that government collect nearly US$145 billion in tobacco excise tax revenues each year, but spend less than US$1 billion combined on tobacco control – 96% of this is spent by high-income countries. Tobacco taxes provide significant revenue to governments with relatively low administrative costs making tobacco taxes appealing, especially during periods of budget shortfalls (Chaloupka, 2010). The attitude of taxpayers varies considerably. Some comply with the fullest extent required, irrespective of whether the FIRS are actively auditing them or their industry. Other taxpayers essentially play the audit lottery and either do not prepare contemporaneous documentation or prepare the absolute minimum with the hope of avoiding the imposition of penalties (Turner, 2004). The World Health Organization statistics has shown that tobacco use and exposure to environmental tobacco smoke (ETS) is currently responsible for the death of 5.4 million people every year. If left unchecked, it is sure to increase to more than eight million in the current year. Unfortunately, 80 per cent of the casualties could be from developing nations, like Nigeria. The thrust of this study is thus to examine how BAT are complying to these policies as a way of managing their relationships with the Nigerian government.

Objective of the Study

The main purpose of this research was to investigateGovernment-Business Activities: An Agency Theoretic Analysis of British-American Tobacco Company in Nigeria. The specific objective was to assess British-American Tobacco Compliance with government tax regimes.

Literature Review

In the subsisting literature, both economic and legal, the concept of regulation seems so slippery that it cannot be pinned down to a single definitive explanation. While certain writers on this concept consider and evaluate various definitions and attempt through systematization to make the term amenable to further analysis (Baldwin and Cave, 1999; and Ogus, 2004), others, seeming yielding to its elusiveness to generally acceptable conceptualization, withdraw from an exact definition of regulation (Ekelund, 1998; Joskow and Noll, 1981; Spulber, 1989; Train, 1997). However, Johan, (2010), posited that regulation will be taken to mean the employment of legal instruments for the implementation of social-economic policy objectives. We have taken legal instrument to mean in part, that government can mandate individual citizens or organization within its jurisdictions to conform to legislated code of conduct failing which such individual or organization is made to face the penalty of sanctions. Organizations can be compelled, for instance, to observe certain prices, to supply certain goods, to stay out of certain markets, to apply particular techniques in the production process or to pay the legal minimum wage. Sanctions can include fines, the publicizing of violations, imprisonment, an order to make specific arrangements, an injunction against withholding certain actions, divestiture of businesses or closing down the business (Johan, 2010),

Since there is no business organization that is beyond the reach of some kinds of political systems where they operate, companies are subject to national rules and regulations of countries when they enter their territory and there are some ways for governments to exercise power over businesses. It is evident in literature that governments especially of developing countries bargain with multinational corporations (MNCs) on the concessions corporations have to make in order to gain the rights to enter the market (Strange 1988, 83). The efficacy of government regulation over corporations depends on the power of state, on the institutional links it has with the private sector and on the compliance mechanisms on its disposal. By the *efficacy* government we mean government's ability to enact law which safeguards the safety of its citizens and enforce same when it is violated. When state policy is aligned with the interests of the private sector and dominant social institutions, there is a higher probability for it to succeed (Tian 2006, 89). However, Tian (Ibid, 56) went further to note that state policy can affect private strategy, but not determine it. This means that businesses are sometimes able to circumvent state policies that adversely affect their operations. Governments can implement policies that either regulate the operations of foreign companies, or encourage them to invest in the host market. The policies chosen by a particular country are largely related to their governance model. According to Dicken (2007) the different ways states can organize their economies include neo-liberal capitalism, exemplified by countries such as US, social market capitalism as it is pursued in Scandinavian countries including Finland, developmental capitalism as chosen by East Asian countries such as Taiwan, and communist-capitalist systems such as China. These governance models have different views on the role of the state. In developmental capitalism, the state develops and adheres to a national economic strategy whereas social market capitalism emphasizes collaboration between actors (Dicken 2007). The governance model employed affects the perspective the state has on controlling and stimulating economic activities and investments within national boundaries and trade and investment on the international level (Ibid, 180). Consequent upon the foregoing, Nigerian government will need to employ restrictive policies on the production and consumption of tobacco products than is now obtained.

Government Power over Business Organization

According to Stopford et al. (1991, 14) states can exercise both negative and positive power over companies. States exercise negative power (perhaps in a bid to protect her citizens, economy and environment), when they disrupt and influence trade by controlling the entry of foreign firms to the national market. In this article, the use of negative power is defined as setting regulations that prohibit production and consumption of tobacco in Nigeria. On the other hand, states exercise positive power when they try to harness internal resources and influence where and how internal production takes place (Stopford et al. 1991, 14). Employing positive power is defined as using incentives. Also, other schools of thought share a similar view on the ways in which governments can influence firms. Even though, Wu argues (2007, 278) that governments can change companies' performance into a desirable direction by applying policy measures, which either indirectly influence businesses through changing market structure, or directly affect firms' conduct, the kernel of this paper is that tobacco production or consumption cannot be influenced in a manner that will make safe for its consumers. Consequently, governments can either intervene on the operations directly or indirectly by setting general regulatory conditions. Dicken (2007, 234) argues that the most significant aspects state's control... (Is) that firms must comply with (state's regulation)when operating within national boundaries.

Reasons for governments to exert power over businesses should not only be limited to helping national economic development through foreign currency earnings, technology, knowledge and creation of employment, which lead to better competitive position in the world markets and thus to increased exports and income (Smeets 1996, 90), but it should also include public health safety. Additional benefits accrued to the host economy include economic development through gaining of capital and access to markets through the networks of MNCs, in addition to the impact of MNCs' operations on social, cultural and political aspects (Dicken 2007, 460). Furthermore, if carefully selected, foreign companies operating in developing countries can have positive effects on the host economy's employment and human resources, as they often pay higher wages than local firms (Stopford et al. 1991, 187) and they teach new skills to the workforce and thus upgrade it (Ietto-Gillies 1997b, 85). In addition, Korhonen, K. (2005) notes that nations in general want to attract firms doing value-adding activities in order to stimulate economic growth and succeed internationally. Governments can be also aiming at pushing foreign companies into stronger local responsiveness in order to achieve greater local entrepreneurial capability and reduced import costs (Stopford et al. 1991, 154). This can be done by insisting on involvement oflocal personnel in managerial positions, setting local content regulations (Dicken 2007, 182) and requiring companies to engage in a number of activities locally, such as research and development (Bouma 1996, 62). According to Korhonen, K. (2005) policies supporting productivity enhancements in value creating industries are more effective in boosting nations' competitive advantage than defensive policies aimed at improving factor cost profiles.

There are some political measures through which governments can influence companies' operations. According to Dicken (2007, 180-183), policies that aim at intervening on economic activities of companies can be divided into trade, FDI and industry policies. Trade policies are concentrated on the terms companies need to comply to when exporting and importing goods across borders. These measures include tariffs and taxes in addition to non-tariff barriers, which encompass quotas, licenses needed for imports, customs procedures and legislation (Dicken 2007, 181). Additional trade policy measures encompass regulations related to health and safety, environment, distribution, packaging, and origin of goods (Bouma 1996, 62). Trade policy measures are generally applied in order to raise revenue and protect domestic interest by making companies' international operations more costly and thus affect their location decisions (Dicken 2007, 181). Nigerian government may raise tax and make the cost of production and operation of tobacco companies prohibitive. Investment policies, on the other hand, are concentrated on either attracting beneficial investment or restricting harmful ones into the country. Investment policies can be divided into outward and inward policies. The focus of this thesis is set on the latter type. By selectively tightening the policies guiding the operations of MNCs in Nigeria governments can discourage companies whose products are harmful to user while encouraging those one whose operations and products are safe and boosting economic growth. Therefore investments in the sectors, which best promote the development of the economy, should receive more incentives (Smeets 1996, 90).

Especially important are the strategic industries, which according to Smeets (1996, 91), are considered to be of fundamental importance to the development of economic potential of the country due to their technology intensity and spin-off effects to related industries. Investment policy incentives include measures such as providing tax benefits and subsidies and setting up export processing zones (Bouma 1996, 47). Besides incentives, governments can attract companies by employing stimulatory policies that can be applied selectively to a certain type of firm, industry, or geographical area (Dicken 2007, 183). Special incentives can also be offered to selected businesses; these include subsidies on investment or production costs and fiscal benefits or protection against competition (Bourma 1996, 62).Investment policy measures that regulate foreign companies are related to entry, operations,or finance of the firm (Dicken 2007, 182). Measures used for limiting entry include screening investment proposals, limiting foreign ownership and excluding foreigners completely or from certain sectors (Dicken 2007, 182). Thus government regulation on ownership, for example, limits the company's range of choices when it is evaluating different ways to enter and serve the market. Besides trade and investment policies, states can also manage the national economy by macroeconomic policies including fiscal policies, which determine how companies are taxed, and monetary policies, which influence interest and exchange rates (Dicken 2007, 179) in addition to financial and industrial policies (Strange 1988, 77).

Financial regulation affects the firm's interest on loans and opportunities to transfer the return on investment to the home country (Bouma 1996, 62-65). Thus free repatriation of capital and avoidance of double taxation in addition to clear tax systems make countries' operating environment more attractive. Industry policies that can have an effect on the operations of foreign firms include charges on labour – taxes and social insurance contributions – that affect the cost on hiring employees in the host country (Bouma 1996, 62). The potential industry policies are also related to regulation on mergers and competition, company legislation, taxation, national technical and product standards, and to state ownership of production assets (Dicken 2007, 184). Also policies related to anti-trust and patents further effect the operations of a MNC in a host-country (Strange 1988, 172). Generally it is reasonable to assume that the more regulated the market is, the less attractive it is for entering and investing. Thus decreasing administrative burden of companies is important in order to support their operations (Bouma 1996, 67).

Characteristics of the national economy influence its desirability as an investment and operating destination, Strange (188, 84) argues that the more social cohesion, political stability and economic growth potential a country has, the easier it is able to attract and to regulate MNCs to act as partner. Conclusively, governments can apply power over companies by using regulation and incentives in order to gain benefits to the host economy, or to keep unwelcome companies outside the market. Intervention in business operations can be done by using policy measures that influence the operating environment of companies.

Control of Businesses over Government

The structure of the world economy is precipitating governments' vulnerability to businesses control. Businesses have been gaining more power in the global economy, which result in them having a better bargaining position than before. Globalization has its hand in decreasing the power of states; states cannot control the operations of MNE's that happen outside its boundaries (Stopford et al. 1991, 14). This is to say that, even if the Nigerian government is able to able to make law that will stamp out tobacco companies out of production, it will have importation of tobacco (legal or otherwise) to contend with. This is because, if companies are not based on one predominant national location, but rather serve global markets through global operations, companies cannot be influenced to a large extent by national policies, and can escape all but the commonly agreed and enforced international regulatory standards (Hirst & Thompson1992).

This means that it is more difficult for governments to impose national regulation on companies. The increased bargaining power of businesses is related to their global nature; MNCs gain bargaining power due to their flexibility to move and ability to take advantage of geographical differences in the distribution of factors of production and government policies (Dicken 2007, 106). Some manufacturing companies choose locations to produce and market at a global level as strategy and opportunities dictate (Hirst & Thompson 1992). Accordingly, MNCs can be characterized as footloose and potentially willing to locate and relocate anywhere in the world to gain either the highest or most secure returns. This results from their internationalized management and the lack of a specific national identification. (Hirst & Thompson 1992) Also, Dicken (2007,) argues that as regulatory structures are different around the world, firms can try to circumvent them by shifting their activities to locations with a more appealing regulatory environment. For example, Bouma (1996,) points out that companies have increasing opportunities to move their operations to countries with a lower level of taxation and more flexible labour and environmental legislation. In fact, firms can engage in regulatory arbitrage, which leads states competing against each other as they try to win the investments of the MNC (Dicken 2007). As a result businesses can gain bargaining power over governments due to their global nature and the scope of state's policies supporting domestic firms and regulating foreign ones narrows down (Desai 2008).

As governments' influence on businesses decreases, governments lose bargaining power and companies obtain more of it. Thus, Dicken (2007) argues that MNCs are increasingly important players in the world economy as they have become “the primary shaper of the contemporary global economy and a major threat to the economic autonomy of the nation state”. Particularly powerful are MNCs that create trade through internal markets, i.e. inter-firm trade, in effect incorporating parts of national economies into their own organization and avoiding taxation through setting its own transfer prices (Dicken, 2007). Thus it seems that MNCs have managed to gain relatively lot of power compared to states. Businesses have also been gaining a more important role in global policy making. Desai (2008) notes that business representatives are increasingly involved in economic diplomacy when, for example, an investing firm seeks the best incentive package from potential host governments. Businesses also sometimes try to form good relations to influential politicians or senior civil servants in the host country in order to gain incentives or other benefits (Korhonen 2005, 81). According to Welch and Wilkinson (2004, 218) firms conduct political actions when they act as lobbyists of governments, and thus become quasi political actors. The authors (Ibid, 218) noted that through political activities firms can influence the formation and implementation of government policies and legislation. Stopford et al. (1991, 224) is of the opinion that in order to bargain effectively with governmental officials in the host country, businesses should use representatives with local expertise that act as corporate diplomats.

To sum up, firms gain bargaining power over states due to their flexibility to move their operation to a more appealing location. The interrelationship between states and firms can be described as both cooperative and conflicting, as states need firms in material wealth creation, and firms need states in providing a supportive infrastructure (Dicken

2007). Nevertheless, even though governments' relative bargaining power has been decreasing due to globalization, they still hold power over companies. Dicken (2007) argues that despite firms having internationalized, many of them remain connected to their home base. As such they are geographically embedded and influenced by the socio-political, economic and institutional frameworks they operate in, regardless how influential and significant to the economy they are (Dicken 2007, 18). Therefore states will maintain in any case indirect power over firms through shaping these frameworks.

Theoretical Frame Work

Agency Theory

The relationship of agency is one of the oldest and commonest codified modes of social interaction. We will say that an agency relationship has arisen between two (or more) parties when one designated as the agent, acts for, on behalf of, or as representative for the other, designated as the principal, in a particular domain of decision problems. Examples of agency are universal. Essentially all contractual arrangements, as between employer and employee or the state and the governed, for example, contain important elements of agency (Ross, 1973).

This paper adopts agency theory in its analysis of the relationship which exists between the Nigerian government and the British-America Tobacco Company (BATN). We assume here as agent, the Nigerian government, which, having licenced (BATN) to produce and market tobacco within it territories, now levies and collects taxes through Federal Inland Revenue Large Tax Office. On the other hand, the principal here is taken to mean the Nigerian citizens who put government in place by election, to secure them and provide a conducive environment where they can realize their ultimate desire in the best possible manner.

According to Eisenhardt (1989), agency theory is concerned with resolving problems that can occur in agency relationships. These problems are generally divided into agency problems and risk-sharing problems. Agency problems arise when the agent's and the principal's goals or interests conflict, and it is difficult or expensive for the principal to verify the agent's actual performance or behaviour. Risk-sharing problems stem from the fact that the principal and the agent may have different attitudes toward risk, resulting in different preferences for actions (Eisenhardt 1989).Again, it is evident that agency problems exist between government and the Nigerian citizens. While the goal of the Nigerian citizens is to live healthy life or to be helped to live healthy life, that of government seems to be hinged on large revenue accruable to its coffer through collectable taxes from BATN. In the same vein, the foregoing problems exist simultaneously with risk-sharing ones. While the attitude of most of the Nigerian users of tobacco to its health implications seems to stem from and range from ignorance and addiction, the government's attitude is nonchalant about health hazards that tobacco production and consumption create. This is because, though, the federal government is aware of the danger tobacco poses; it only warns through its Ministry of Health, that 'smokers are liable to die young'.

One central assumption of agency theory is that there is an information asymmetry between the principal and the agent, to the advantage of the latter. The claim of the government and BATN is that the latter is an agent of national economic development. However, a critical examination of the claim shows that it is false. Although tobacco taxation may seem to constitute a substantial source of government revenue, it should be kept in mind that the same amount could just as well be raised in other ways. It is not however, in the public interest to neglect smoking control measures simply on the grounds that they might lead to a decrease in tax revenue.

Empirical Framework

Abdulsalam, Almustapha and Gambo (2014) study on tax rate and tax compliance in Africa showed that there is a significant negative correlation between tax rate and tax compliance, tax rate has a negative effect on tax compliance. Noor, Mazni and Kamis (2013) study on qualitative findings of tax compliance burden: analysis of tax preparers survey investigated, tax-related difficulties faced by companies, reasons for engaging external tax preparers and suggestions on how to reduce tax compliance burden of companies. The findings revealed that some companies do not have an in-house tax compliance department but instead out source all their tax activities. It also found 'Lack of in depth of technical knowledge' and 'Income tax law is too complicated' as the most stated reasons with 83.3 percent of cases.

Catalina, Florin and Claudia (2013) study on the variables that affect tax compliance within the fiscal game examined tax compliance through an integrating approach that incorporates psychological, social, cultural, moral and economic factors for clarifying and explaining taxpayers' attitudes and behaviours.

Methodology

Secondary data was obtained for this study from the Federal Inland Revenue Service (FIRS) publications, texts, journals and other related articles. Review was done on the related variables of the study.

Conclusion

The work has shown that the government-business relationship between the Nigerian government and BATN is such that endangers the lives of the citizens which ironically should be the responsibility of government to protect. The operation of BATN as licenced by the government is not in the best interest of the Nigerian citizens but in the interest of the agents – BATN and Nigerian government who benefit from huge profit and taxation at the expense of health and safety of the populace.

Recommendations

Based on the findings and conclusions of this study, the following recommendations are made in accordance with the FCTC:

1. Adopt effective legislative or other legal measures to protect public health policies elated to tobacco control from commercial and other vested interests (Article 5.3).
2. Effective use of taxation measures, including reform of tax structures if necessary and

regular tax increases that actually increase the price of tobacco products so as to reduce demand (Article 6);

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