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The Tobacco Industry in New Zealand: A Case Study of the Behaviour of Multinational Companies

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Authors

Thomson, George
Wilson, Nick

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The Tobacco Industry in New Zealand: A Case Study of the Behaviour of Multinational Companies



**George Thomson
Dr Nick Wilson**

**Public Health Monograph Series No. 6
Department of Public Health
Wellington School of Medicine and Health Sciences**

UNIVERSITY
of
OTAGO



Te Whare Wānanga o Otāgo

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“If you want to do something about malaria, you have to study mosquitoes. And if you want to do something about lung cancer, you have to study the tobacco industry.”

Professor Stan Glantz. In: Noah T. Funding of study of tobacco firms is periled in House. *The Wall Street Journal* 7 August 1995.

The tobacco industry and its allies said it:

“... nicotine is addictive. We are, then, in the business of selling nicotine, ...”
 (Addison Yeaman, Brown & Williamson vice president and general counsel, 1963. Cited in Lewan 1998)

“Today’s teenager is tomorrow’s potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens ... The smoking patterns of teenagers are particularly important to Philip Morris ...”

(1981 report sent from researcher Myron E Johnston to Robert B Seligman, then vice president of research and development at Philip Morris in Richmond, Virginia. Cited in Chapman and Davis 1998)

(Operation Mayflower objectives in the New Zealand setting, summarised by Ogilvy & Mather in their report to the Tobacco Institute of New Zealand):

1. “To maintain smoking as a socially acceptable pastime (freedom to choose).
2. To reassure people that it has not been scientifically proven that passive smoking is harmful to non-smokers.
3. To position the Tobacco Institute of New Zealand as a responsible body which wants to present the facts about smoking issues.”

(Ogilvy & Mather Ltd. *Operation Mayfly: Report to SAWP on visits to Sydney and Auckland February 1981* (Strictly Confidential). (Ogilvy & Mather 1981)

“Will’s strategy should ensure that: ... (b) the focus is upon the government’s restrictive proposals as a whole ... (e) the consequences of restriction on Wills and its workforce are seen publicly to be directly attributable to government action and not BAT policy.” ... “In assigning responsibility for the damaging economic and social consequences of restrictive legislation, the industry should always target government. The Coalition should not be identified specifically and allowed to take any credit. The Coalition should be seen as the creator of problems for the government.”

(Wills NZ 1989) 1989 Wills (NZ) public affairs strategy document.

“Laugesen repeats the call to “deglamorise” the product by moves towards a plain pack a la Australia. ... the industry in New Zealand is calling for an international approach to this issue by using international conventions and treaties governing intellectual property and trade marks to politicise the issue and shift the ground away from health activists and into the real world of trade, commerce and commercial freedom of speech.”

(Owen 1993a) July 1993 letter by John Owen (Public Affairs Manager of Wills (NZ)), about the new Public Health Commission draft paper on tobacco.

“Clearly, we can’t take the total credit for its demise and individuals like Dr Laugesen won’t go away but the death of the PHC is a damn fine Christmas present”

Jim Burns (Corporate Affairs Manager of Wills (NZ)) (Burns 1994)

“The death of the PHC at least removes an independent, extremely well funded loose cannon from the anti-tobacco debate although having its former chief as deputy chief of the Health Ministry is not helpful.”... “However, at least she is now obliged to operate within the confines of the Civil Service – which was our second objective – the first to see the PHC disbanded.”

(Burns 1995a).

“I remain concerned that Collins and the potential plaintiffs are capturing the media ground on this issue and are managing to make the prospect of possibly taking some action sound like they are actually taking some action and are winning the battle. Occasionally, I have a nightmare that somehow, from somewhere Collins will come up with a million dollars to bankroll a serious challenge.”

(Burns 1995c). Wills (NZ) memo to Wellington-based lawyers and the legal department of BAT (UK). It included a transcript of a Radio Pacific interview of August 1995 relating to the lawyer Dr David Collins, who had become involved with ASH’s legal plans.

“We are a responsible company operating within the laws of New Zealand...”
(Phil Tunstall of BAT (NZ) reported in *NZ Herald* 2000a).

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Summary

This report takes a preliminary look at the behaviour of the tobacco industry in New Zealand. It is based on a series of literature searches, interviews with key informants, and on the examination of internal tobacco industry documents, many of which have been released by court orders in the United States.

The report considers the tobacco industry activities in the context of a suggested framework for a responsible industry. The framework assumes that where the available evidence indicates that a consumer product poses a significant health hazard, then there are a number of appropriate responses that a business should undertake. These include warning the public, ceasing to promote the product and modifying the product to reduce harm.

We found internal tobacco industry documents that appeared to show that advisers to the industry in New Zealand believed that smoking caused cancer, at a period when the industry was denying this link in statements to Parliament. Other documents showed that the industry took some credit for the decision in 1994 to end the Public Health Commission. The industry believed that they had slowed the adoption of new health warnings about tobacco during the 1990s. The documents show that the industry was assisted in their opposition to tobacco control activity by major New Zealand law firms, and by lawyers that included Sir Geoffrey Palmer, an ex-Prime Minister of New Zealand.

The behaviour of the tobacco industry in particular areas is summarised below.

The industry and the direct health effects of smoking: The available evidence suggests that the tobacco industry in New Zealand has been irresponsible in its prolonged delay in admitting the health risks posed by its products. Instead, it has attempted to falsely reassure the public and has been obstructive regarding the placement of health warnings on its products. When the industry has started to admit to the health risks from smoking, it has done so in a vague and disingenuous way. It has failed to substantively and appropriately communicate the health risk of its products to its customers and the public.

The industry and the addictiveness of nicotine: The tobacco industry in New Zealand has been irresponsible in not informing its customers that its products are addictive. It has tried to provide reassurance to the public by defining smoking as merely a “habit”. Furthermore, the industry has been obstructive about the placement of health warnings with the word “addiction” on its products. Even though internal industry documents have showed that British American Tobacco and Philip Morris have known for several decades that nicotine is addictive, the companies have still not actively and explicitly acknowledged the severity of the dependence created.

The industry and second-hand smoke: The tobacco industry in New Zealand has consistently failed to warn the New Zealand public or the consumers of its products about the health risks from second-hand smoke. Furthermore, it has attempted to reassure the public and smokers that these risks are not real. These industry activities have been undertaken while the parent companies of some of the New Zealand

companies knew of the risks posed by second-hand smoke (as shown by their internal documents). The irresponsible actions of the industry in New Zealand are similar to the approach taken by the industry elsewhere.

Industry misuse of product design and opposition to harm reduction: The tobacco industry in New Zealand appears to have misused the design of tobacco products, particularly its use of additives. Many of the design changes may have been for marketing purposes rather than for harm reduction. The industry has also opposed the removal of fire accelerants from cigarettes. The apparent focus on marketing issues and lack of concern about significantly reducing harm to consumers is consistent with the policies of the industry's parent companies and of other overseas tobacco companies.

Industry opposition to tobacco control initiatives: The available evidence suggests that the tobacco industry in New Zealand has opposed all substantive measures to help reduce tobacco consumption, to prevent the uptake of smoking by youth, and to protect the population from second-hand smoke. In particular, they have opposed restrictions on tobacco promotion (advertising and sponsorship) and smokefree environment regulations. They have also opposed the organisations involved in tobacco control and the compensation of those harmed by tobacco use. This irresponsible pattern of behaviour is highly consistent with that of the parent companies overseas and of other international tobacco companies.

A responsible industry? It appears that the tobacco industry in New Zealand has behaved in a highly irresponsible manner over the last four decades. The industry's activities would appear to conflict with the societal values embodied in consumer protection legislation such as New Zealand's Fair Trading Act.

Controlling the industry: We argue that given the extensive harm to New Zealanders from tobacco use, and the chronically irresponsible behaviour of the tobacco industry, there is a need for the New Zealand Government to more intensely regulate this particular industry. We suggest that the desired end point for Government policy is a smoking prevalence and exposure to second-hand smoke as near as possible to zero, while still permitting smoking to be legal. A wide range of tobacco control interventions should be used to achieve these end points.

We consider that essential elements of a more effective tobacco control programme would include regular tobacco taxation increases and a much tighter regulatory environment. In particular, there is a need to severely constrain the way tobacco is sold and to control the composition of cigarettes. Publicising irresponsible tobacco industry activities and facilitating legal action against the industry appear to be valuable aspects that could be introduced to New Zealand Government tobacco control activities.

An effective long-term programme for a virtually smokefree New Zealand would need to be carefully planned. It may need to be conducted by a focused, independent agency with secure funding. Without such measures the irresponsible behaviour of the tobacco industry in New Zealand will continue to impose a major burden on the health and welfare of its customers and on the public of New Zealand.

Disclaimer: This work represents the findings and views of these authors only and does not necessarily reflect the views of any organisation for which the authors have done work in the past.

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Some initial research findings pertaining to the Philip Morris (PM) documents were provided by the Smokefree Coalition (which had commissioned work by Health Services Consultancy, Auckland). The Coalition also supplied material identified on Globalink. The work undertaken by Dr Murray Laugesen of Health New Zealand in compiling the *New Zealand Smokefree News* was also of particular assistance.

The Australian Faculty of Public Health Medicine (New Zealand Office) provided support for some of the preliminary work on this topic in 1997. Support for some work with British American Tobacco documents from the Guildford depository was provided by ASH New Zealand. However, over 90% of the work on preparing this report has been funded by the authors themselves.

Special thanks are due to the interviewees, both those quoted and unquoted. Special thanks are also due to Dr Jeff Collin, Professor Peter Davis, Louise Delany, Dr Kevin Dew, Associate Professor Philippa Howden-Chapman, Associate Professor Ichiro Kawachi, Dr Kelley Lee and Anne Tucker for their very helpful comments on earlier drafts. Naturally, they are not responsible for any of the content or opinions in this work.

Definition: The tobacco industry is defined for this report as the importers and manufacturers of tobacco products. Until the late 1990s, it also included the growers of tobacco.

Abbreviations

ASH – Action on Smoking and Health
 BAT – British American Tobacco
 B&W – Brown and Williamson (United States company owned by BAT)
 ETS – Environmental tobacco smoke (also known as second-hand smoke)
 GDP – Gross Domestic Product
 GST – Goods and Services Tax
 NDP – National Drug Policy
 PHC – Public Health Commission
 SNZ – Statistics New Zealand
 SFE – Smoke-free Environments (Act or Bill)
 TINZ – Tobacco Institute of New Zealand (the industry umbrella agency from 1980 to 2001)

1 Introduction

This work examines the behaviour of an international industry operating in New Zealand. In it we attempt to answer the question – has the tobacco industry in New Zealand been a responsible business? To what extent has the industry been irresponsible? We argue that the industry has, by its consistently irresponsible behaviour, contributed to a public health disaster for the nation and all the communities within it.

The information and arguments are primarily for a New Zealand readership. This account is intended to provide a summary of the range of tobacco industry activities, for those who have not had access to the specialist literature on the subject. It also presents previously unpublished information from tobacco industry documents.

This section touches on the extent of the tobacco industry in New Zealand and its international connections, and the sources and methods used for this work. The minimal responsibilities that we suggest for a producer of hazardous products are also explained.

The tobacco industry in New Zealand

For most of the 20th Century, the dominant companies in New Zealand were WD & HO Wills and Rothmans. Wills (NZ) was a subsidiary of British American Tobacco (usually know as BAT). In 1999, British American Tobacco (NZ) was formed from a merger of WD & HO Wills and Rothmans. As part of that merger process, Imperial Tobacco acquired the cigarette factory in Petone from Wills. BAT (NZ) is a subsidiary of BAT (Australasia) Ltd (NZ Financial Press 2000, p166).

In 1999, market shares were described as BAT (80%), Imperial (16%), and Philip Morris 4% (Schouten 1999, and data obtained by the Smokefree Coalition under the Official Information Act 1982 (NZSFN cited in Laugesen 1999a)). The parent company of Philip Morris (NZ) Ltd is Philip Morris (Australia) Ltd which is a subsidiary of Philip Morris Companies Inc (Who's Who 2000, p328). RJ Reynolds used to sell Camel cigarettes in New Zealand, but this brand is now owned by Japan Tobacco.

The international connections

The tobacco industry in New Zealand is very much an integral part of the international tobacco industry. As shown in Table 1 in the appendicised methodology section and elsewhere in this report, there are many documents from the major United States and United Kingdom companies that relate to the activities of their New Zealand offshoots. The details of these often reveal frequent and close communication. The BAT internal documents that we examined showed an extensive flow of letters and faxes between the New Zealand branch and the British head office, with the New Zealand executive staff frequently meeting with overseas industry staff. A further instance of the international links is the 142 documents shown in the Philip

Morris Document website alone, when using the search terms “Zealand” and “Thompson” (the Director of the Tobacco Institute of New Zealand – TINZ).

The connections were not only within companies but also between companies. Evidence in the BAT files of the extent to which tobacco companies communicated and cooperated with each other in New Zealand and elsewhere includes:

- The Wills New Zealand Corporate Plan 1993-97 (p2) which states:

“Product litigation is an industry issue and in the event all costs would be split 50/50 with RPM, irrespective of the company directly involved.” (Wills 1993) (RPM is short for Rothmans Pall Mall)
- A sheaf of correspondence from October 1988 to February 1989 about the planning for a legal and “scientific” seminar in Auckland organised by BAT. The seminar was to be between 20-22 February 1989. The correspondence was between or involved the following overseas organisations: Brown and Williamson in Louisville United States, BAT United Kingdom, Reynolds Tobacco (North Carolina), Philip Morris Europe (Lausanne), Amatil Ltd (Sydney), Clayton Utz (Australian Law firm) and Shook Hardy and Bacon (Kansas City law firm). These Kansas lawyers were to bring the Pacific area lawyers for the industry up to speed (BAT documents 1988-1989). The New Zealand participants in this correspondence were: Wills (NZ), and Tripe Matthews Feist and Simpson Grierson Butler White (New Zealand law firms).

Meetings of this extent indicate that the tobacco industry in New Zealand and its lawyers had close contact with their colleagues in the United States, Britain, Australia and elsewhere. So while this report discusses the tobacco industry “in New Zealand”, it is partly a description of the way that the global industry has interacted in this one particular setting. Such close contact is important when considering the knowledge shared within and between the companies. It decreases any possibility that the local industry didn’t know about the information about harm to health from smoking and second-hand smoke that was held by the industry elsewhere.

Our argument is that the New Zealand branches of the international tobacco industry have generally repeated the irresponsible behaviour of their parent companies. Their conduct appears to be an extension of the policies of the international industry.

The three major companies that import tobacco to New Zealand (BAT, Imperial and Philip Morris) are very large, with a combined annual trading turnover of about \$US 70 billion a year (see Appendix D). This turnover is considerably larger than New Zealand’s gross domestic product of \$NZ 98 billion in 1999 (SNZ 2001).

The methods and sources used for this report

Much of the evidence in this report is derived from internal tobacco industry documents. The industry has been forced to release these by the United States courts, most notably since 1996 (Ciresi et al 1999). For the methods used by us and some of

the document sources, see Appendix A. The web archives detailed there include documents from BAT and Philip Morris. Others documents have been released by whistle-blowing tobacco company or law firm employees, as in the case of some of the documents relating to Brown and Williamson (University of California 1994). This company is part of British American Tobacco (the parent company of BAT New Zealand).

There are a number of reports on the behaviour of the tobacco industry elsewhere. For those who would like an in-depth view of the industry's irresponsible activities at the international level, reports from the World Health Organization (Zeltner et al 2001) and Tobacco Free Kids/ASH (United Kingdom) (Hammond and Rowell 2001) will give a start.

The framework for a responsible business used in this report

What responsibilities does an industry have when the available scientific evidence indicates that its products are harmful? In particular, what responsibilities does an industry have if the products are harmful when used as intended, the harms greatly outweigh the benefits, and the products are highly addictive for nearly all users? In this report, the following are suggested to be irresponsible and unacceptable responses by an industry to the evidence that its products pose an unacceptable hazard:

- denying the harm and hiding the evidence;
- continuing production of the product without a plan to phase it out as soon as is practically feasible;
- continuing to promote the product;
- opposing attempts by governments and citizens to control the extent of use of the product and to reduce the harm associated with it;
- not accepting responsibility for the consequences of their actions;
- not actively working with the product users, governments and others to minimise the harm already caused;
- not compensating as fully as possible individuals, families and communities for the harm caused.

The available scientific evidence has long indicated that the use of tobacco products is commonly fatal when smokers use them as intended by the manufacturers. Tobacco products also indirectly cause harm to those who are exposed to second-hand smoke. This level of harm to public health has been considered to be unacceptable by elected representatives in New Zealand, who have introduced policies and regulations to limit the use of tobacco over the last four decades. A current New Zealand Government health goal is to further reduce both tobacco smoking and the exposure to second-hand smoke (King 2000a).

2 The Industry and the Direct Health Effects of Smoking

The report for the tobacco industry on a 1988 Heylen Research Institute survey found that a significant majority of interviewees didn't believe the industry approach on second-hand smoke, and that:

“78% of people do not believe the industry when it says there is only a statistical correlation between smoking and ill-health. (Even 64% of smokers do not believe the industry approach)” (p17).

The conclusions section of the report recommended that:

“These two issues must continue to be debated, for failure to do so will very likely be construed as ‘an admission of guilt’. However, these two messages must now be complemented by additional (and more believable) communications” (p105).

And later stated:

“The claim that cigarette smokers are considerate is as hollow as the argument that science has not proven a causal relationship between cigarette smoking and cancer ...” (p114) (Industry document 1989).

Throughout the 20th Century, the tobacco industry in New Zealand appears to have never been explicit about any of the adverse health effects of smoking that it knew about. Furthermore, the industry has continued to object to new health warnings and continued to fail to inform smokers and the public of all the known or likely dangers of tobacco use.

The dangers of smoking have been suspected for centuries and known for over 60 years. It is 240 years after the first clinician reported cancer cases among snuff users (in 1761 in London – cited in Heyes 1999, p141). It is over 60 years since the risks with cancer and cardiovascular disease were described in at least three articles in mainstream American medical journals (Diehl 1969). It is half a century since the well publicised studies during the 1950s (eg, by Doll and Hill in 1954). By 1962, 24 studies in over nine countries were published that linked smoking and lung cancer (Taylor 1984, p3). The United States Surgeon General's report came out nearly four decades ago (US Surgeon General 1964) and it is over three decades since Brown & Williamson and BAT privately recognised that tobacco smoke was carcinogenic (ie, “biologically active”) (Glantz et al 1995). By 1992 it was estimated that there were over 50 000 published studies on smoking and health (Davis 1992).

The denial of health risks

During the period in which the advertising of tobacco was legal in New Zealand, the industry took no significant initiative to warn its customers of any possible health risks. Explicitly misleading advertising occurred for a time, with Rothmans stating on its cigarette packets “Does not affect heart or lungs”. This statement was, however, removed in 1961 when the Department of Health (DoH) communicated its concerns with the company (DoH 1961). When the industry was required by the Government to add health warnings on advertisements and cigarette packets, the industry did not fully and explicitly support the warnings by making them a major theme in their advertising. Tokeley reported that the agreements explicitly stated that the “tobacco manufacturers do not accept that it has been scientifically established that smoking is the cause of any human disease” (Tokeley 1992, p160).

The industry actively obscured the health issues around smoking. For instance, they brought in an overseas “expert”, Dr Carl Seltzer, to Australia and New Zealand in 1979. Dr Seltzer has subsequently described himself as being a “physical anthropologist” (Seltzer 1997) but in the media at the time he was described as a doctor from Harvard University. The purpose of his visit was to publicise his research findings in which he claimed to show no link between smoking and heart disease.

Internal tobacco industry documents from Philip Morris show that he began his trip to New Zealand with a “briefing session” involving 30 industry executives, and dinner with company directors (Industry document 1979). His itinerary involved many meetings with media people. Brown and Williamson documents reveal eight news clippings and radio transcripts covering Seltzer’s visits to New Zealand and Australia. Titles of the clippings included “Doctor Slams Link between Smoking and Heart Disease”, “Smokers -Take Heart” and “Smoking Does Not Cause Heart Disease” (as detailed in Hoel 1979 in “The Cigarette Papers” (University of California 1994)). Only one small clipping disclosed that Seltzer was “in Australia at the Tobacco Institute’s invitation”.

Seltzer continued to do work for the industry after this visit. A 1984 internal industry memo indicates that he was asked at Brown and Williamson’s request to respond to unfavourable information on tobacco that was aired on the MacNeil/Lehrer television news programme in the United States (The Cigarette Papers: Item 2004.23).

During the 1980s, industry representatives appeared to continued to mislead the public on health issues. For example, a May 1988 *60 Minutes* programme showed Michael Thompson (Director of TINZ) on television with an interviewer (Lindsay Perigo). The exchange was as follows:

Thompson: “I am saying that science has not established a causal relationship between smoking and the diseases that it is allegedly associated with.”

Perigo: “Do you smoke?”

Thompson: “I smoke myself yes.”

Perigo: “Do you believe you are damaging your health?”

Thompson: “No I don’t.”

Thompson (later): “In 30 years of laboratory research science has failed to establish a causal link between cancer and smoking.” (TVNZ 2000)

Submissions to the Parliamentary Social Services Select Committee in 1990 by the industry appear to have continued a similar stance. The industry re-stated their long-standing claims of there being no scientific proof that there were any constituents in tobacco products that caused harm or disease to humans, and that second-hand smoke was not a health risk (TINZ submission (TINZ 1989a) cited in Deeks 1992). Similarly, in a TINZ report published in 1989 the section on “the health issue” cast doubt on the association between smoking and “so-called smoking related diseases” (TINZ 1989c). In regard to the Toxic Substances Board report it stated:

“Further, the report does not acknowledge that there are numerous factors other than smoking that are statistically associated with so-called smoking related diseases. Many scientists hold the firm view that much more research is needed to explore these numerous other factors. The possibility that just one of them may be found to be causal is an urgent challenge to science.”

“The TSB report...totally ignores the well documented evidence showing that animals exposed to cigarette smoke do not develop more tumours than unexposed animals.”

The “challenge to science” argument above by the industry is an example of the industry attempting to “off-load” the health issue from themselves to the science community. At the same time they attempted to portray the evidence on smoking harm as confusing and ambiguous. In so doing they were not only misinforming the public (in the light of their own internal documents – see below) but were avoiding the principles and letter of New Zealand consumer safety law. The law at that time (the Fair Trading Act 1986) specifically put the onus on manufacturers not to be deceptive or misleading about their products.

The industry comments on the evidence of harm from tests to animals at this time were also in sharp contrast to the published scientific evidence. This evidence indicated that cigarette smoke and its constituents were carcinogenic in rats and mice (eg, Henry and Kouri 1986; Rivenson et al 1988). Furthermore, the public comments contrast with the findings of the industry’s own studies from 1970:

“[W]e believe that the Auerbach work proves beyond reasonable doubt that fresh whole cigarette smoke is carcinogenic to dog lungs and therefore it is highly likely that it is carcinogenic to human lungs.” (Memo dated 3 April 1970 from the company research manager to the head of Gallaher Ltd,

American Tobacco's British-based sister company. Trial Exhibit 21 905. Cited in Chapman and Davis 1998).

Was the industry covering up their knowledge of harm?

The frequency and extent of communication between the head offices of tobacco companies and their New Zealand branches make the knowledge of harm by those in New Zealand highly likely. However, there also appears to be evidence that industry people in New Zealand were either lying about the harm from smoking, or were self-deluded in the face of contrary public opinion and scientific evidence.

In the BAT internal files there is a report on a 1988 Heylen Research Institute survey for TINZ. The cover of a section of the survey (Volume III – Summary and conclusions) has the statement “Prepared for Simpson Grierson Butler White”. This is the law firm that was working for Wills (NZ). The section contains comments on the survey, which appear to be from advisers to the tobacco industry in New Zealand. The survey found:

- That 69% of interviewees did “not believe the industry approach: that science has not established that other people’s cigarette smoke is a health hazard to non-smokers. (Even 52% of smokers have accepted that their cigarette smoke maybe/is a hazard to the health of non-smokers)” (p17).
- That “78% of people do not believe the industry when it says there is only a statistical correlation between smoking and ill-health. (Even 64% of smokers do not believe the industry approach)” (p17).

The conclusions section of the report recommended that:

“These two issues must continue to be debated, for failure to do so will very likely be construed as ‘an admission of guilt’. However, these two messages must now be complemented by additional (and more believable) communications” (p105).

One of the most remarkable statements is in the section 11.9 (p114) “The Consideration Issues”. It looks at the finding of a majority disagreement by non-smoking interviewees to the statement “that smokers normally show consideration to non-smokers”. It then proceeds to state:

“The claim that cigarette smokers are considerate is as hollow as the argument that science has not proven a causal relationship between cigarette smoking and cancer...” (Industry document 1989).

This view on the causal relationship appears to conflict with industry statements provided to Parliament on the lack of evidence that smoking caused cancer. For instance, these industry statements are detailed in the TINZ “Submission to the Parliamentary Select Committee on Social Services in the matter of the Smoke-free Environments Bill” (Deeks 1992).

Some idea of the thinking behind the industry's stance on health risks can be seen in an industry document from 1993:

“The statements that we make are based on sound scientific data that is, on the whole, somewhat complex. Hence BATCo has formed the Smoking Issues Department, which has the responsibility of advising Op. Cos on the interpretation of the science and assisting Op. Cos in developing approaches to address various smoking issues.” (Procter 1993). (Op. Cos appears to mean the Operational Companies within the BAT empire, such as Wills (NZ)).

The industry strategy internationally has been to minimise and cast doubt on the evidence of health risks, to divert attention to other risks, to demand an exceptional level of evidence and to refuse a precautionary approach to risk (Barnes and Bero 1996; Ong and Glantz 2001; Muggli et al 2001; Hirschhorn and Bialous 2001; Drope and Chapman 2001).

The change of tactics in the mid-late 1990s

The large-scale revelations from internal tobacco industry documents, from 1994 onwards, forced the industry to change its tactics. In the late 1990s the tobacco industry in New Zealand began to reframe the way it discussed smoking and health issues. The denial of harm and of the responsibility for it became more indirect. There was a great deal of amnesia about previous industry denials of the health risks. For instance:

Mr P Lorrigan (Rothmans): “It’s certainly not the case that these studies establish that smoking is harmful to everyone who does it. Now I know a lot of people will say that and a lot of people in the medical profession will say that. The point I’m making is that’s not what these studies say. These studies are statistical associations.”

Lorrigan (Rothmans): “Any suggestion that the public have not been informed about the statistical risks associated with smoking is ludicrous” ... (RNZ 1998a)

“Numerous studies over more than 30 years have associated risks with smoking. The conclusions of these reports are well known to the authorities and have been widely publicised to the public” (Press Release 1998).

The second quotation above by Mr Lorrigan is one of the first in New Zealand to show the new industry strategy. This strategy attempts to say that *despite* the denials by the industry that smoking was harmful to health, the public was not affected by those denials. The approach implies that the public knew of the risks and thus governments and individuals are responsible for any consequences of tobacco use.

The industry's new approach ignores the responsibility of those who manufacture hazardous and addictive products. Such manufacturers have a responsibility to *actively and fully* warn those who might buy their products of the dangers. Where the overwhelming majority of those who become addicted do so before they are fully aware of the dangers involved, manufacturers may have a responsibility to actively help smokers to quit smoking.

The industry's aim in the developed world is to now present the danger from tobacco use or smoke exposure as a matter of "statistical risk", similar to the chance of being run over by a bus. This approach is markedly insufficient. "Knowledge" of the risks is rarely sufficient for smokers dependent on nicotine or those exposed to second-hand smoke. In particular:

- "Knowledge" of risk is always incomplete both in content and quality. Very few people know more than a few of the approximately 40 medical conditions (Doll 1998) that are associated with tobacco use. United States work suggests that smokers underestimate their risks of heart disease, cancer and stroke (Strecher et al 1995). There is a need for smokers to know that the risk of death from tobacco use is much higher than for any common human activity. Such activities include the risk of death from childbirth, from regular car travel, work in a hazardous occupation, and even (at age 40) from all natural causes (BMA 1987).
- New and augmented risks are continually being found or better quantified – such as the risk from smoking of blindness (Mitchell et al 1999) and the immediate impact on the heart function of healthy non-smokers after 30 minutes of exposure to second-hand smoke (Otsuka et al 2001).
- The addiction from nicotine substantially removes the matter of a *choice* of exposure to risk for those who have already begun smoking.

A 1997 interview with the Director of TINZ (Michael Thompson) also provides an example of the new approach:

“He (was) unwilling to discuss last month's assertion by Mr Geoffrey Bible, the head of Philip Morris in America, that smoking 'might have' killed 100 000 Americans. Says Thompson, 'Mr Bible is entitled to his personal opinion. But if people here don't know enough about the allegations concerning smoking and whether they should smoke or not, then society would have to be illiterate. And it's not!' ” (du Chateau 1997)

In a radio interview, Tony McGuire of BAT made the following remarks (RNZ 1998b):

Kim Hill (interviewer): “Not to put too fine a point on it, Tony, they're dying?”

McGuire: “I'm not sure about the health aspects of what you're talking about there but, in terms of the long-term trends in the marketplace, the market is declining.”

Hill: “Is there an admission on your part that smoking damages health?”

McGuire: “We acknowledge smoking is a risk factor in disease.”

McGuire: “...This is a pretty complex area. What we acknowledge is that yes, smokers as a group, are more likely to contract certain diseases but that doesn’t mean because you, I or one of Mr Delamere’s colleagues chooses to smoke as an informed adult, that that individual will contract disease. You know, it’s not quite as simplistic as some people that want to...would want to make it appear”.

This statement by Mr McGuire ignores the addictive nature of smoking. The issue of industry denial of nicotine addiction is discussed further in the next section.

BAT (NZ) appears to have first admitted the validity of the statistical “risks” from smoking in relation to specific diseases in April 2000. According to a BAT spokesperson, Ms Vicki Curtis: “You would really have to be sticking your head in the sand to deny that. The evidence is very convincing. If you are going to smoke you are really going to increase your risk of lung cancer, emphysema or heart disease...” (Hawkins 2000).

However, as of mid-2001 similar admissions which linked smoking to specific diseases still do not appear to have been publicly made by Philip Morris (NZ) or by Imperial Tobacco’s New Zealand company. For instance, the industry has completely ignored the extensive medical literature that has identified smoking as a major preventable cause of blindness (eg, with an estimated 1300 cases of smoking-attributable cases of blindness in New Zealand (Wilson et al 2001)).

The new tactics of the industry elsewhere

As in New Zealand, the general approach elsewhere of the industry is now that: everybody knows about the risks of smoking, and “that informed adults should continue to have the right to choose to smoke” (Philip Morris website 2001a). A recent effort by a number of tobacco company executives to give variations on this theme can be seen in an extract from the British House of Commons hearings into the industry during 2000 (Appendix B). Much of the industry evidence in the extract attempts to rewrite history so as to advantage the manufacturers.

Three years prior to the discussion of specific diseases by BAT (NZ) in 2000, the tobacco company Liggett made the following admission:

“We at Liggett know and acknowledge that, as the Surgeon General and respected medical researchers have found, cigarette smoking causes health problems, including lung cancer, heart and vascular disease and emphysema.” (Bennett LeBow, owner of the Liggett Group in Dade County Circuit Court, 20 March 1997. Cited in Heyes 1999, p12).

Philip Morris (NZ) appears to have made little or no attempt to communicate to the wider New Zealand audience the warning that the parent company puts on its website. In 1999 the parent company said:

“There is an overwhelming medical and scientific consensus that cigarette smoking causes lung cancer, heart disease, emphysema and other serious diseases in smokers. Smokers are far more likely to develop serious diseases, like lung cancer, than non-smokers. There is no “safe” cigarette. These are and have been the messages of public health authorities world-wide. Smokers and potential smokers should rely on these messages in making all smoking-related decisions” (Philip Morris website 2001b).

An 1993 internal Philip Morris study on its corporate image in Australia apparently recommended a more straightforward approach to communicating the risks of smoking, in order to be regarded more favourably by the public (*The Age* cited in Laugesen 1999b).

Industry opposition to health warnings

The tobacco industry in New Zealand in 1973 placed warning notices and tar levels on cigarette packets, as part of a voluntary agreement with Government. The agreement also placed restrictions on cinema and billboard advertising (Kapoor 1980, p8; Hay 1993, p315). The warning was “Government warning: smoking may damage your health” (detailed in the Voluntary Agreement – (Industry document 1973)). This warning was, however, particularly vague and did not mention any specific smoking-related diseases.

In 1986 the Department of Health proposed a warning “Smoking is addictive and kills”. It was reported that because of industry opposition, this was muted to “smoking damages your lungs” and “smoking causes fatal diseases” (Laugesen 1999c). Again the key word “addiction” was missing.

During the 1990s the industry continued to retard the introduction of stronger warnings, according to Laugesen:

“... since 1995, Rothmans, [and] through the Tobacco Institute[,] BAT has helped fight a delaying action using public policy lawyers Palmer and Chen, to oppose the Ministry of Health’s proposals for stronger warnings, including [that] smoking is addictive.” (Laugesen 1998a)

Ministry of Health documents obtained under the Official Information Act 1982 also refer to the role of the law firm Chen & Palmer in this area. The documents indicate that legal challenges were used against Ministry efforts to strengthen health warnings and consumer information on tobacco packaging (Curry 1995a; Curry 1995b). One of the lawyers involved for the industry was Sir Geoffrey Palmer, an ex-Prime Minister of New Zealand.

It appears from the internal tobacco industry documents that the industry believed that the pressure from Chen & Palmer had slowed the progress towards the new warnings. A report from Wills (NZ) in October 1995 stated:

“Final (government) decisions on new Australian-style pack warnings are still some way off and legal submissions presented by the industry have further slowed the implementation of the new warnings...” (Wills NZ 1995).

The New Zealand industry in 1995 also appears to have used the support of the United States-based Trademark Association, which raised concerns with the Minister of Health (Smyth 1995a). The connection with the Trademark Association is further noted in the section on packaging below.

The delays in introducing new warnings continued for some time:

“as of late December 1998, new health warnings (Smoking kills, Smoking is addictive etc) had still not been put to or approved by Cabinet”... “Hon Jenny Shipley when Health Minister, promised these warnings to the Smokefree Coalition in October 1994. The Tobacco Institute and the cigarette makers have successfully delayed these warnings by 5 years, using lawyers and by asking for more time to present their arguments”. (Laugesen 1999d)

In fact these new warnings were not introduced until late in 1999 / early 2000. The new warnings included: “smoking kills”, “smoking causes heart disease”, “smoking causes lung cancer”, “smoking is addictive”, “smoking when pregnant harms your baby”, “your smoking can harm others”. There was also a health message in Maori saying “smoking kills” and also increased information about tar, nicotine and carbon monoxide on cigarette packs (Langford cited in Laugesen 1999e).

The industry has also opposed the possibility of New Zealand using pictorial warnings, as used in Canada. John Galligan of BAT is reported as saying that:

“The tobacco industry was concerned (that) graphic warnings could attract young people to cigarettes because of their novelty value.” “Do I believe that a single New Zealand smoker isn’t aware of the risks of smoking? No, I don’t.” (Maling 2001)

In 1998 a BAT spokesperson was reported as criticising the Associate Minister of Health for introducing new health warnings, saying that these warnings had failed to cut the number of young people taking up smoking in Australia (Gardiner 1998 cited in Laugesen 1998a). The BAT statement is in sharp contrast with the evidence in the literature on consumer health warnings that existed at this time. As reviewed by Mahood (1999):

“Warnings can have a positive impact on consumers, especially on starters and those contemplating quitting smoking, if the warnings are highly visible and provide specific rather than general information.” (Cited studies: USDHHS 1989; CBRC 1992)... “In Canada, in 1994, just the movement of a warning from the bottom of the package to the top and a change from the package colours to a stark black-and-white format improved the recall of one warning from 20% to 95%.”

Mahood also reported that a study in Poland found that 3% of male smokers and 4% of female smokers reported quitting following the introduction of strong warnings. There is also similar evidence of the efficacy of warnings from Australia and South Africa (Aftab et al 1999). Internal tobacco industry documents provide further evidence that warnings can work (as reviewed by Mahood 1999).

Discussion

If the industry were genuine in wanting to inform its customers about the health risks posed by using its products, it would completely change its approach. It would provide appropriate information to the public in appropriate ways. It would evaluate and publish the impact of the information on public understanding, by commissioning independent organisations to conduct well-designed risk perception surveys. In particular, the industry would not impede the introduction of stronger Ministry of Health warnings on tobacco products. If the New Zealand industry were genuine about admitting to health risks, it would also provide appropriate health warnings when it is not required to do so by law. For instance, it would provide warnings on the tobacco products that it currently exports to Pacific countries.

Summary

The available evidence suggests that the tobacco industry in New Zealand has been irresponsible in its prolonged delay in admitting the health risks posed by its products. Instead, it has attempted to falsely reassure the public and has been obstructive about the placement of health warnings on its products. When the industry started to admit to the health risks from smoking, it has done so in a vague and disingenuous way. It has failed to substantively and appropriately communicate the health risk of its products to its customers and the public.

3 The Industry and the Addictiveness of Nicotine

“I have given Carolyn [Levy] approval to proceed with this study. If she is able to demonstrate, as she anticipates, no withdrawal effects of nicotine, we will want to pursue this avenue with some vigor. If, however, the results with nicotine are similar to those gotten with morphine and caffeine, WE WILL WANT TO BURY IT. Accordingly, there are only two copies of this memo, the one attached and the original which I have.” (1977 Philip Morris memo by William L Dunn, to Thomas Osdene cited in Chapman and Davis (1998)). [Capitalisation in the original].

The regular use of tobacco leads to nicotine dependency in most users. This dependency is such that it is usually very difficult for the user to stop smoking. Even when the ex-smoker has not actively smoked for years, they are often still in danger of starting again, especially if tobacco is being smoked around them on a regular basis (Dale et al 2000; Ockene et al 2000; Razavi et al 1999; Stapleton 1998).

The tobacco industry in New Zealand, as elsewhere, has tended to avoid any public discussion of the issue of nicotine or of nicotine being addictive. When the issue has arisen, the approach has been to reframe smoking as just a “habit”. For instance:

Mr Tony McGuire (BAT): “...I will not accept that addiction in the terms that you use it, fits the classical clinical definition.” ... “I think habit is about right. It’s an enjoyable habit. ...”

Kim Hill: “I think that you denied that it is addictive in the sense that most people realise it...” (RNZ 1998b)

Similarly, the Director of TINZ (Michael Thompson) was reported in 1997 as follows:

“Thompson doesn’t buy the addiction argument, pointing as an example, to his personally giving up smoking, cold turkey, after a challenge by Brian Edwards around seven years ago.” (du Chateau 1997)

Thompson’s tactics were described as “frame the debate in freedom terms; exclude health considerations ... Focus on choice without mentioning nicotine. ... On death by cigarettes – reframe as ‘allegations concerning smoking’ ” (du Chateau 1997).

The industry has also implicitly downplayed the addiction argument through its discussion of smoking as an “informed choice”: eg, “...chooses to smoke as an informed adult” (McGuire (BAT) in RNZ 1998b). Similarly, a 1998 issue of the BAT (NZ) publication *Tobacco Times* had a highlighted statement at the end of a page:

“Smoking is an adult choice”. This appears to mislead, in omitting information on the addictive nature of smoking. To be accurate the statement would need to read “smoking may be a choice for the minority of smokers who appear not to be dependent on nicotine”.

Unlike its statements on the risks of smoking and health (see Chapter 2), the industry in New Zealand has, to date, made no similar statement concerning the addictiveness of smoking. Instead, it has obstructed health authorities on the proposals for warnings stating that smoking is addictive (see Chapter 2).

What the industry knew about nicotine and addiction

The parent company of BAT (NZ) appears to have known that nicotine is addictive for some time, according to a study of internal industry documents:

“During a period of 22 years (1962 to 1984), employees of B&W [Brown and Williamson] and BAT conducted research and commented on the pharmacology of nicotine. They consistently regarded nicotine as the pharmacological agent that explained tobacco use. In the early part of the period under study, officials of the companies wrote about nicotine addiction explicitly. Inhalation of cigarette smoke by the consumer was recognized throughout the period as necessary for the normal function of a cigarette. The documents contain little indication that research was conducted on either the taste or the flavor of nicotine. The documents reveal an intention on the part of B&W and its corporate parent to affect the function of the body with nicotine.” (Slade et al 1995)

Other authors examining tobacco industry documents from various companies (including BAT and Philip Morris) released in the Minnesota Tobacco trial have found that:

“These documents reveal that for decades, the industry knew and internally acknowledged that nicotine is an addictive drug and cigarettes are the ultimate nicotine delivery device; that nicotine addiction can be perpetuated and even enhanced through cigarette design alterations and manipulations.” (Hurt and Robertson 1998)

Examples of specific comments from industry files are as follows:

“Moreover, nicotine is addictive. We are, then, in the business of selling nicotine, an addictive drug effective in the release of stress mechanisms.” (Addison Yeaman, Brown & Williamson vice president and general counsel, 1963 cited in Lewan 1998).

“Very few consumers are aware of the effects of nicotine, i.e., its addictive nature and that nicotine is a poison.” (1978 Brown & Williamson memo signed by HD Steele cited in Chapman and Davis 1998).

“I have given Carolyn [Levy] approval to proceed with this study. If she is able to demonstrate, as she anticipates, no withdrawal effects of nicotine, we will want to pursue this avenue with some vigor. If, however, the results with nicotine are similar to those gotten with morphine and caffeine, WE WILL WANT TO BURY IT. Accordingly, there are only two copies of this memo, the one attached and the original which I have.” (1977 Philip Morris memo by William L Dunn, to Thomas Osdene cited in Chapman and Davis (1998)). [Capitalisation in the original].

Kessler (1995) reports that Canadian branch of Imperial Tobacco received research reports that noted that many teenage smokers regretted starting smoking and wanted to quit, but were not able to.

“However intriguing smoking was at 11, 12, or 13, by the age of 16 or 17 many regretted their use of cigarettes for health reasons and because they feel unable to stop smoking when they want to. Over half claim they want to quit. However, they cannot quit any easier than adults can.” (Kwechansky Marketing Research. Project 16. Montreal, Quebec, Canada: Imperial Tobacco, October 18, 1977: vi.)

“The desire to quit seems to come earlier now than before, even prior to the end of high school. In fact, it often seems to take hold as soon as the recent starter admits to himself that he is hooked on smoking. However the desire to quit, and actually carrying it out, are two quite different things, as the would-be quitter soon learns.” (Project plus/minus-3 or cry 11: study highlights. Montreal, Quebec, Canada: Kwechansky Marketing Research, May 7, 1982: 1.)

The spin on addiction by the industry outside New Zealand

The first public admission by a tobacco company that tobacco was addictive was made in 1997 by the Liggett Group.

“We at Liggett also know and acknowledge that, as the Surgeon General, the Food and Drug Administration and respected medical researchers have found, nicotine is addictive...” (Bennett LeBow, owner of the Liggett Group in Dade County Circuit Court, 20 March 1997, cited in Heyes 1999, p12).

“We believe, for many people, smoking is very addictive” (Bennett LeBow, Liggett Group in Dade County Circuit Court, 21 July 1997, cited in Heyes 1999, p9).

However, other companies have been less explicit about addiction. In 2000, a senior official of BAT was reported as having admitted that its products “can be seen to be addictive” (Chris Proctor, head of science and regulation for BAT, cited in Siegel 2000). The BAT website now states:

“We recognize that for many people smoking is difficult to quit. Nicotine is a natural part of tobacco that when smoked has mild pharmacological properties and contributes to smoking pleasure. It is thought to have a mild stimulant effect, similar to that of caffeine, and to contribute to the reduction in stress reported by many smokers. Nicotine is clearly not the only reason that people smoke, and the success of a brand is not determined by its nicotine content.

British American Tobacco recognises that, by current popular concepts of addiction, smoking can be seen as addictive. However, despite the fact that many people find it difficult to quit, there is nothing in cigarette smoke that removes the ability of someone to stop smoking, once they have the motivation to do so. In some countries – for example the UK – there are now more ex-smokers than smokers.” (BAT website 2002)

This statement avoids the information that nicotine is as dependence creating as heroin (Pontieri et al 1996; Iversen 1996). It appears to be misleading in its description of nicotine as having “mild pharmacological properties”. The statement further omits the growing evidence that many smokers may not be gaining pleasure or relieving stress by smoking, but only avoiding withdrawal symptoms (Cohen and Lichtenstein 1990; Pomerleau and Pomerleau 1990; Parrott 1990; Parrott 1998). Furthermore, after a withdrawal period, smoking cessation may *reduce* anxiety (Parrot 1995; West and Hajek 1997).

The BAT statement “there is nothing in cigarette smoke that removes the ability of someone to stop smoking, once they have the motivation to do so” also appears to be misleading. It ignores the ability of nicotine dependence to *severely reduce* smokers’ ability to stop, and the great difficulty of those with such dependence to remain non-smokers.

A Philip Morris sponsored magazine supplement also includes the statement of a spokesperson “Cigarette smoking is addictive, as that term is most commonly used today” (Philip Morris 2000a). However, it has been suggested that this “qualifier allows the company to claim that smoking is addictive in the same sort of way that shopping or the Internet is sometimes described as addictive” (Bates 2000).

Similarly, the Gallaher Group of tobacco companies has admitted in an advertisement that “in today’s language, smoking is regarded as addictive” (Gallaher Group 2001). But it then further dilutes the meaning of the word by stating “the meaning of addiction has developed over time and now is given such a wide interpretation that it encompasses a range of behaviours, include smoking”. To further undercut the sincerity of its statement, Gallaher reverts in the same advertisement to describing smoking as “a habit”.

Summary

The tobacco industry in New Zealand has been irresponsible in not informing its customers that its products are addictive. It has tried to provide reassurance to the public by defining smoking as merely a “habit”. Furthermore, the industry has been

obstructive about the placement of health warnings with the word “addiction” on its products. Even though internal industry documents showed that British American Tobacco and Philip Morris have known for several decades that nicotine is addictive, the companies have still not actively and explicitly acknowledged the severity of the dependence created.

4 The Industry and Second-Hand Smoke

“... we believe that the procedures we have followed and set out in this report will be useful in any country and will hopefully provide a ‘Project Mayfly textbook’ for any interested NMAs*. Particularly those in countries where anti-smoking activities are at a level which requires public retaliation by way of advertising communication” TINZ Director Michael Thomson (Thompson 1981). (*NMAs are national cigarette manufacturers’ associations).

This section details some of the tobacco industry attempts in New Zealand and elsewhere to maintain the social acceptability of smoking. Evidence is also given on the industry actions in downplaying and avoiding the scientific evidence that second-hand smoke is a risk to health. In this section, second-hand smoke is also described by others as “environmental tobacco smoke”, “ETS” and “passive smoke”.

The risk from second-hand smoke

The adverse effects of exposure to second-hand smoke include asthma, glue ear, and respiratory infections in infants and children (DiFranza and Lew 1996; Li et al 1999). There is also evidence from New Zealand (Fergusson et al 1998) and international data that maternal smoking in pregnancy is associated with a number of health effects. These include subsequent behavioural problems in children (Williams et al 1998; Orlebeke et al 1997) low birth-weight (England et al 2001), and other post-natal problems (Chung et al 2000; Bearer 1997). Adults exposed to second-hand smoke are at increased risk of asthma exacerbations, heart disease (He et al 1999; Law et al 1997) and stroke (Bonita et al 1999) as well as lung cancer (Hackshaw et al 1997; Taylor et al 2001).

A report commissioned by the Ministry of Health has estimated that there are around 400 deaths attributable to exposure to second-hand smoke in New Zealand each year (Woodward and Laugesen 2000). While the range of attributable deaths accompanying this figure is fairly broad, it may still be a conservative estimate as it does not include the additional adverse effect of second-hand smoke on smokers. The mortality estimate places second-hand smoke amongst the worst environmental health risks in New Zealand, and in the same range as the deaths from motor vehicle crashes.

These authors have also estimated the annual burden of illness from second-hand smoke exposure in New Zealand as follows: over 500 hospitalisations of children under two years of age; almost 15 000 episodes of childhood asthma, more than 27 000 general practitioner consultations for asthma and other respiratory problems in childhood; 1500 hospital operations to treat glue ear; approximately 50 cases of meningococcal disease; approximately 1200 hospitalisations for ischaemic heart

disease; and almost 500 hospitalisations for persons suffering from strokes (Woodward and Laugesen 2001).

The social unacceptability of smoking and “Project Mayfly”

Industry documents reviewed by Francey and Chapman (2000) have shown that a secret tobacco industry meeting, involving seven tobacco companies, took place in 1977 (at Shockerwick House, Bath, United Kingdom). This meeting included the major companies that have been involved in New Zealand in the past and currently (Rothmans, Philip Morris, BAT, and Imperial). Agenda items of the meeting included research into the benefits of smoking, the mounting of a programme of “smoker reassurance” and countering of the increasing social unacceptability of smoking. This group of international tobacco representatives became known as the International Committee on Smoking Issues (ICOSI) (and from 1981 it became known as the International Tobacco Information Centre (INFOTAB)).

One outcome for New Zealand of the international plans was an ICOSI/INFOTAB project for a “long term communications plan” called “Operation Mayfly”. This involved a “field test” utilising the Tobacco Institute of New Zealand (in addition to the institute in Australia) (Francey and Chapman 2000). The objectives in the New Zealand setting were summarised by Ogilvy & Mather in their 1981 report to TINZ (with the first two objectives being from a TINZ position paper):

1. “To maintain smoking as a socially acceptable pastime (freedom to choose).
2. To reassure people that it has not been scientifically proven that passive smoking is harmful to non-smokers.
3. To position the Tobacco Institute of New Zealand as a responsible body which wants to present the facts about smoking issues.” (Ogilvy & Mather 1981)

The conclusion to the Ogilvy & Mather paper was that the “Mayfly ‘field test’ on evidence so far seems to be successful on both local and international criteria”.

The Director of TINZ reported that year on the progress regarding research for an advertising campaign as part of the project (Thompson 1981). He also wrote:

“we believe that the procedures we have followed and set out in this report will be useful in any country and will hopefully provide a ‘Project Mayfly textbook’ for any interested NMAs*. Particularly those in countries where anti-smoking activities are at a level which requires public retaliation by way of advertising communication.” (*NMAs are national cigarette manufacturers’ associations).

In a recent television documentary called “Shockerwick Secrets” the presenter (Janet McIntyre) stated that “Michael Thompson – Director of the Tobacco Institute since its formation in 1980, declined to be interviewed by *60 Minutes*” (TVNZ 2000).

However, his statement as reported by TVNZ was:

“In 1981 the Institute agreed to receive proposals and develop a research based communications campaign to put its point of view in the then smoking

debate, within the principles of free speech. The resultant ideas for advertising proposed to the Institute were rejected and the so-called Mayfly advertising campaign did not run in New Zealand. I reject any suggestion that there was anything untoward in the activity referred to in the documents.” (M Thompson of TINZ reported in *60 Minutes* (TVNZ 2000)).

The available internal tobacco industry documents show no evidence that the *objectives* of the Mayfly Project were “rejected”. The opposite appears to have been the case. While an advertising campaign does not appear to have eventuated, Project Mayfly appears to have continued:

“We have now decided to divide Mayfly into two specific areas of activity, one of a public campaign and the other of a research exercise and appropriate communication with specific target audiences such as politicians” (TINZ 1982).

Furthermore, from this time onwards (until its demise in 2001), TINZ continued to counter the evidence that smoking and second-hand smoke was harmful. For example, the Institute lodged a formal complaint against a “World in Action” documentary that dealt with second-hand smoke in the workplace (TINZ 1982). The Broadcasting Corporation of New Zealand did not uphold this complaint.

Another example was the TINZ director’s presentation to Auckland City Council to counter a smokefree area by-law (TINZ 1986a):

“The record shows that environmental tobacco smoke is an insignificant component of indoor air, that it does not have acute medical effects and that studies frequently cited by anti-smoking activists in support of a ‘health claim’ have been either debunked or severely criticised in scientific and medical circles.”

“Calls for intervention are not based on science, medical data or a widespread community demand. Council would be well advised to steer clear of initiatives which intrude into personal behaviour and workplace procedures; and which create opportunities for job discrimination and mischief.”

Subsequently, in 1988 the TINZ published “Environmental Tobacco Smoke: A review of the literature”. This document cast doubt on second-hand smoke being a significant health hazard. The Department of Health published a review of this work that is a classic in demolishing the credibility of the industry (Reinken 1990). The Reinken analysis suggested that the TINZ review was very selective, incomplete, and with poor quality sources that mainly referred to unrefereed work. The industry countered again with a critique of Reinken’s critique (TINZ 1990).

The preceding examples suggest that the industry took a consistent stance during the 1980s – that second-hand smoke was not a significant threat to health. Furthermore, all the actions of TINZ as detailed elsewhere in this study appear to have been entirely consistent with the basic themes of project Mayfly. Those themes were to

maintain smoking as “socially acceptable” and to reassure the public that second-hand smoke was not harmful.

“Reassurance” from industry-funded “experts”

A number of “experts” have taken similar positions to the tobacco industry, in the extent to which they have cast doubts over the evidence concerning the harm to health from second-hand smoke. One who was particularly relevant to New Zealand was a British statistician, Mr PN Lee. He had three letters published in the *New Zealand Medical Journal* between August 1989 and January 1990 (Lee 1989a; Lee 1989b; Lee 1990). Public health researchers (Kawachi and Pearce 1989; Reinken 1989) critiqued Mr Lee’s analysis. These authors also pointed out Mr Lee’s links with the tobacco industry and his use of the same arguments in other countries. Mr Lee admitted that he did do work for the industry (Lee 1989b) and internal Philip Morris documents show that he wrote a report for the industry criticising the Kawachi et al (1989) paper on the impact of second-hand smoke in New Zealand (Lee 1989d). He was also one of the authors of the industry-sponsored critique of the Toxic Substances Board report (see Chapter 6).

The same Dr Seltzer referred to in Chapter 2 (ie, who had received industry funding) also published a letter in the *New Zealand Medical Journal* in June 1991 (Seltzer 1991). This letter critiqued a 1990 editorial in the *British Medical Journal* by the New Zealander Professor Robert Beaglehole on the relationship between second-hand smoke and heart disease (Beaglehole 1990). This critique by Dr Seltzer was unusual in that it was not published in the *British Medical Journal* itself. This suggests that it was sent to the *New Zealand Medical Journal* to contribute to the “debate” in the New Zealand setting. Since this time, Dr Seltzer has not published any other Medline-indexed letters or articles concerning the numerous studies subsequently published on second-hand smoke and heart disease. Indeed, his only other Medline-indexed publication in the 1990s (Seltzer 1997) was still raising concerns about a Framingham study on smoking and heart disease that was published in 1968 (ie, Kannel et al 1968).

Industry “reassurance” on second-hand smoke in the 1990s

Despite the further extensive accumulation of scientific literature on second-hand smoke and health in the 1990s, the industry continued to follow its “reassurance” tactic. For example, during 1998, Rothmans (NZ) (on behalf of TINZ) issued a press release concerning a result from an International Agency for Research on Cancer (IARC) – World Health Organization study of second-hand smoke effects (Rothmans cited in Laugesen 1998b). Rothmans claimed that there was no significant result obtained and stated that “the data in relation to ‘passive smoke’ and adverse health effects is weak and inconclusive”.

A 1998 issue of the BAT publication *Tobacco Times* further commented on the IARC study:

“The results are consistent with there being no additional risk for a person living or working with a smoker and could be consistent with passive smoke having a protective effect against lung cancer”.

Tony Maguire of BAT (NZ) was quoted in that article as saying that the IARC study was “confirmation that there is no meaningful link between passive smoking and lung cancer” and that there was:

“Now no reason for smoke bans in public places”... “Now we have authoritative research from the World Health Organisation which shows such bans cannot be justified on health grounds alone”... “The study confirms a view that the industry had long held that while smoke in the air may annoy some non-smokers, passive smoke is not a lung cancer risk”. (BAT NZ 1998)

These comments on the IARC study by the industry were misleading, and followed similar comments by the industry elsewhere. The published findings of the IARC study illustrate otherwise (Boffetta 1998). The IARC responded to the efforts by the international tobacco industry to obscure and misreport the study results with a statement:

“The alleged negativity of the study is in sharp contrast to what is reported in the article submitted [for publication]. An increase of 16% in the risk of lung cancer for non-smoking spouses of smokers, and a 17% increase for exposure to passive smoking at the workplace were observed. For both exposures, there was a dose-response relationship, i.e. greater extent of exposure was associated with a higher risk...”... “The results support previous studies in Europe and the U.S.A. which indicate that passive smoking increases the risk of lung cancer in humans.” (Gaudin cited in Laugesen 1998c).

Others have detailed how the industry distorted the findings of the IARC study (Ong and Glantz 2000). Furthermore, Rothmans and BAT (NZ) selectively ignored the weight of evidence from major meta-analyses for both lung cancer (involving 37 published studies) and heart disease (19 published studies), as published in the *British Medical Journal* in 1997 (Hackshaw et al 1997; Law et al 1997). The Journal’s comment on the meta-analysis on lung cancer was as follows:

“The causal association is supported by a dose-response relation between risk of lung cancer among non-smokers and years of living with a smoker and the amount smoked by her or him; by the fact that the risk is proportional to that in smokers given the difference in dose; and by the finding of tobacco specific carcinogens in the blood and urine of non-smokers exposed to other people’s smoke. The authors conclude that their analysis confirms that exposure to environmental tobacco smoke is a cause of lung cancer.” (BMJ 1997)

A subsequent meta-analysis on second-hand smoke and lung cancer that attempted to take account of publication bias also reported an increased risk but at a lower level than previously reported (Copas and Shi 2000). Another recent meta-analysis also confirmed the increased risk (Taylor et al 2001).

Yet in another 1998 issue of *Tobacco Times*, Carrick Graham of BAT (NZ) stated:

“It is British American Tobacco’s view that public smoking is a social issue, not a health issue. For example, over 40 independent studies over the last 15 years have looked for a relationship between living with a smoker and the incidence of lung cancer in smokers. The overwhelming majority of these studies found no overall meaningful increase in risk for those married to a smoker. The small minority of studies that reported an overall increase in risk reported increases so small as to be generally treated as not being conclusive”.

This statement appears to completely misreport the situation in the published peer-reviewed literature. It appears to be part of the deception about second-hand smoke risks by the industry elsewhere, as detailed immediately below.

Industry “reassurance” from 2000

In April 2000, the spokesperson for BAT New Zealand (Vicki Curtis) claimed to have reviewed “all the science” published on second-hand smoke. She is reported to have stated:

“This is going to sound like complete heresy but the science is very weak. There is very little evidence to suggest that it really is a risk factor for diseases such as lung cancer and heart disease. That’s not to negate the fact that non-smokers can find it an annoyance.” (Hawkins 2000)

The claim by the BAT spokesperson to have reviewed “all the science” on second-hand smoke was a bold one, considering that at the time there were over 3700 Medline-indexed articles available under the search term “passive smoking”. Her conclusions do not match the results of the meta-analyses published in medical journals in recent years.

The particular omissions by the industry in New Zealand have included avoiding warning the public about the recent evidence on the risk of stroke from exposure to second-hand smoke in a New Zealand study (Bonita et al 2000). The industry has also failed to warn the public of the strong evidence for associations between second-hand smoke exposure and asthma, cot deaths and respiratory infections in children (some of which is derived from New Zealand-based studies).

Given the overall body of evidence that second-hand smoke is an important risk factor to health, the position of the tobacco industry in New Zealand has continued to be misleading. This deception by the industry is made worse by the low level of public awareness in New Zealand of this health hazard. For example, only half of a sample of adults was aware that second-hand smoke negatively contributed to all the following diseases: asthma, cancer, heart disease, and respiratory problems (al-Delaimy et al 1999). There is also limited knowledge about some of the risks from second-hand smoke amongst the workers who are most exposed – those in the hospitality industry. Research in Wellington has shown that fewer than a third of such workers were sure of the risk of strokes from second-hand smoke (Jones et al 2001)

and less than 5% appeared to be sure of all the seven health risks from second-hand smoke that they were asked about (Thomson 2001a, p23).

The denial of the second-hand smoke hazard by the industry elsewhere

The response by the industry in New Zealand to the second-hand smoke hazard has been consistent with that of its parent companies and other overseas tobacco companies. These international companies have continued to try to cast doubt on the link between second-hand smoke and health (Davey Smith and Phillips 1996). This has been deliberate deception, as shown by Brown and Williamson and BAT internal documents:

“Privately, B&W and BAT began conducting research related to ETS in the mid 1970s. BAT researchers appear to have determined that sidestream smoke produces irritation, that it contains toxic substances including N-nitrosamines, and that it is “biologically active” (eg, carcinogenic) in laboratory tests. During the 1980s, the primary purpose of BAT’s research related to ETS was to develop a new cigarette that emitted less irritating and less biologically active sidestream smoke. Publicly, the tobacco industry has denied that exposure to ETS has been proven dangerous to health. . . . The tobacco industry’s strategy regarding passive smoking has been remarkably similar to its strategy regarding active smoking. It has privately conducted internal research, at least some of which has supported the conclusion that passive smoking is dangerous to health, while it has publicly denied that the hazards have been proven.” (Barnes et al 1995)

These authors also noted that Brown and Williamson had criticised the methodology of published research on ETS, even when some of its own consultants have privately acknowledged that the research was valid. The documents also indicated that the industry had funded scientific research with the stated purpose of anticipating and refuting the evidence against ETS. An actual example of industry attempts to obscure the second-hand smoke issue is as follows:

“... the direction we are headed will be to deflect this [second-hand smoke] issue, to redefine it, to broaden it, to demonstrate as we have in the case of accidental fires and youth behavior that we are contributing to the solution rather than to the problem.” (Speech in 1985 by William Klopfer (US Tobacco Institute) (Klopfer 1985)).

More recent examination of internal industry documents has shown that Philip Morris spearheaded an inter-industry effort to subvert the work on second-hand smoke by IARC (Ong and Glantz 2000). These authors identified a scientific strategy by the industry that attempted to undercut IARC’s research as well as to develop industry-directed research to counter the anticipated findings. They found that the communications strategy planned to shape opinion by manipulating the media and the public:

“The documents and interviews suggest that the tobacco industry continues to conduct a sophisticated campaign against conclusions that second-hand smoke

causes lung cancer and other diseases, subverting normal scientific processes.”

Part of that subversion of normal scientific processes has come from the work of tobacco industry affiliated authors in writing review articles about second-hand smoke effects. There appears to be a pattern of industry-sponsored research and other activity that attempts to cast doubt on second-hand smoke risks (Ong and Glantz 2001; Muggli et al 2001; Hirschhorn and Bialous 2001; Drope and Chapman 2001).

A study of 106 reviews on the health effects of second-hand smoke found that 37% of these reviews concluded that second-hand smoke was not harmful to health. However, 74% of these particular reviews were written by authors with tobacco industry affiliations (Barnes and Bero 1998). Twenty-nine out of 31 such authors came to this conclusion compared to only 10 of the 75 non-industry related authors. Furthermore, the study by Barnes and Bero found that, in multiple logistic regression analyses, the only factor significantly associated with a review concluding that second-hand smoke was not harmful was “whether an author was affiliated with the tobacco industry”.

A recent summary of the views on second-hand smoke risks by the tobacco industry in Britain can be seen in Appendix C. This is an extract from the British House of Commons report in 2000 on the tobacco industry. Notable is the Select Committee’s conclusion that they “found BAT’s analysis of the epidemiology of environmental tobacco smoke largely unpersuasive”.

As of mid-2001, the international industry has continued to be vague and disingenuous on the risks of second-hand smoke. Philip Morris does, however, give some information on its website:

“Government agencies have concluded that ETS causes disease – including lung cancer and heart disease – in non-smokers. We recognize and accept that many people have health concerns regarding ETS. In addition, because of concerns relating to conditions such as asthma and respiratory infections, we believe that particular care should be exercised where children are concerned, and that smokers who have children – particularly young ones – should seek to minimize their exposure to ETS.”

“A number of studies have reported increased relative risks for children – especially young ones – living in smoking households of contracting conditions such as cough, wheeze, otitis media (middle ear infection) and lower respiratory infection. Moreover, some studies suggest that ETS exposure could be one of many agents that can make episodes in asthmatic children more severe. There are also studies that report an association between parental smoking and Sudden Infant Death Syndrome.” (Philip Morris website 2001a)

Despite the above, it is unclear what Philip Morris (as opposed to Government agencies) really considers are the risks of second-hand smoke. Indeed, Philip Morris tends to dilute the risk information by: (i) describing second-hand smoke as

“unpleasant and annoying” rather than as a health hazard; (ii) providing links to libertarian websites which criticise the evidence: “For opinions regarding the relationship between science and politics, select from the links below”; (iii) stating that it has challenged aspects of the United States Environmental Protection Agency risk assessment of second-hand smoke in Federal court; (iv) downplaying the size of the second-hand smoke risk as: “a small increased risk”; and (v) giving some prominence to the IARC study – in which the increased risk of lung cancer was not at a statistically significant level (rather than to the relevant meta-analyses of many studies). Furthermore, the website encourages ineffective solutions to the problem: “good ventilation is an important way to keep the area comfortable for everyone”. It even frames the options as being a matter of “choice” for *owners* of restaurants, bars, casinos and other hospitality venues – rather than a “right” of customers to breath unpolluted air.

The BAT website gives a similar statement, which frames the issue as part of a “person’s choice to smoke”. It also misreports the evidence on risk:

“Some people claim that a person’s choice to smoke may pose health risks to others from environmental tobacco smoke. However, statistics do not demonstrate that environmental tobacco smoke is even a risk factor for any long-term health effects or disease. We agree with public health authorities that it makes sense not to smoke around infants, especially in poorly ventilated environments and not to smoke around young children for long periods. However, public smoking is a social issue, which can be resolved through sensible regard for other people.” (BAT website 2002)

Summary

The tobacco industry in New Zealand has consistently failed to warn the New Zealand public or the consumers of its products of the health risks from second-hand smoke. Furthermore, it has attempted to reassure the public and smokers that these risks are not real. These industry activities have been undertaken while the parent companies of at least some of the New Zealand companies knew of the risks posed by second-hand smoke (as shown by their internal documents). The irresponsible actions of the industry in New Zealand are similar to the approach taken by the industry elsewhere.

5 Industry Misuse of Product Design and Opposition to Harm Reduction

“We have evidence of virtually no quitting among smokers of these (ultra low) brands and there are indications that the advent of ultra low tar cigarettes has actually retained some potential quitters in the cigarette market by offering them a viable alternative” (Tobacco industry document cited in Cohen 1996b).

In this section we argue that changes in the designs of tobacco products may have been for marketing purposes rather than for reducing harm to customers. We also detail the industry’s opposition to the removal of fire accelerants from cigarettes.

Adding filters to cigarettes

The addition of filter tips to some cigarette brands in the 1950s and 1960s appears to have been initially undertaken by the industry in an attempt to reduce levels of tar. However, Kessler has reported that the filters also reduced nicotine, resulting in a less “satisfying” cigarette (Kessler 2001, p130, p227). He documented the response of one United States tobacco company in terms of increased use of “heavier bodied (tobacco) types” with “relatively high nicotine count” to counter the effect of the filter.

There may not have been any major health gains from the use of filters because:

“... smokers modify their behaviour to ensure they inhale enough smoke to achieve a satisfactory nicotine ‘hit’. But by increasing their intake of nicotine, smokers also take in more tar.” (Jarvis and Bates 1999)

It is unknown if the industry in New Zealand modified the type of tobacco used or other aspects of cigarette design with the introduction of filter cigarettes into New Zealand. However, the addition of filters may have been for marketing reasons only, as the industry in New Zealand:

- Was denying publicly that smoking posed any risk to health at all at the time of the introduction of filters (and for over three decades subsequently).
- Has continued up to the current time to supply brands without filters to smokers.
- Has provided no information to the Government or the public on the key literature relating to the possible benefits of using filters (eg, as suggested in various studies Agudo et al 2000; Armadans-Gil 1999; Stellman et al 1997).

Low tar, low nicotine and menthol brands

In the late 1970s Rothmans launched new “low-tar” and “low-nicotine” brands in New Zealand. Another tobacco company criticised its marketing as breaching the agreement with the 1976 Government not to make health-orientated claims:

“...the launching by Rothmans of two brands, Pall Mall Extra Mild and Peter Stuyvesant Extra Mild, on an explicitly health-orientated advertising platform featuring pseudo-League Tables and references to ‘low tar/nic’. This was in direct contravention to the 1976 Government/Industry agreement. Nevertheless, both brands have proved successful and a plethora of similar brands has now followed including Capri from Philip Morris which makes direct reference in its advertising to actual tar/nic values.” (Industry Document 1978).

Since the 1970s, the use of such marketing devices has been widespread. For instance in 1992, the industry introduced new variations of menthol and “mild” forms of cigarettes (PHC 1994b). In 1997 and 1998, BAT launched “light” brands (BAT cited in Laugesen 1998d). There is no evidence that the industry made these product changes to protect the health of consumers or those exposed to second-hand smoke, since it continued to publicly refute the scientific evidence during this period that smoking and second-hand smoke had adverse health effects. Furthermore, it did not release information to the Government, public or to the health sector that these changes were designed to reduce the adverse effects of smoking.

There is also no sign that the industry has withdrawn menthol brands from the market in the light of the evidence suggesting that they might be more hazardous than non-mentholated brands. It appears that mentholation of cigarettes adds additional carcinogenic components to cigarette smoke (Sidney et al 1995) and increases cotinine and carbon monoxide levels in smokers (Clark et al 1996). Also some (eg, Sidney et al 1995) but not all studies (eg, Carpenter et al 1999), suggest poorer health outcomes in smokers of these cigarettes.

High nicotine cigarettes in New Zealand

New Zealand research published in 1997 indicated relatively high nicotine contents in New Zealand cigarettes, at around twice the levels of Canadian and United States cigarettes (Blakely et al 1997; Blakely and Symons 1997). Tobacco industry representatives in New Zealand criticised the validity of the first of these studies (eg, as reported by Llewellyn 1997). They claimed that the study measured the nicotine levels in solid tobacco rather than in the smoke. Rothmans placed full-page advertisements in national newspapers denouncing the study and denied that it manipulated the nicotine levels of cigarettes to target underage smokers.

Subsequently the tobacco industry’s own figures, obtained under the Official Information Act 1982 were publicised by the Smokefree Coalition (1997). The Coalition stated that New Zealand’s most popular brands of cigarettes contained much more tar and nicotine than those sold in Australia. (For New Zealand’s top 30 brands the average tar was 13.4 mg and nicotine 1.1 mg per cigarette, compared with

an average 6.8 mg of tar and 0.65 mg of nicotine in the smoke of the top 30 brands of Australian cigarettes).

The industry pursued the matter further. According to the *New Zealand Smokefree News*, in 1998 solicitors Chen & Palmer (acting for the TINZ) placed a request under the Official Information Act 1982 for relevant correspondence held by the Ministry of Health. The request was for material on the testing of cigarettes and tobacco for nicotine on the Ministry's behalf in the previous two years by the Institute of Environmental Science and Research (ESR) (Laugesen 1998e). No public announcement of any further legal action appears to have been made.

The relatively high level of nicotine in New Zealand cigarettes is of great concern, given the role of nicotine in making youth addicted to smoking and in maintaining smoking in adults (see Chapters 1 and 3). The systematic lowering of the nicotine content of tobacco has been suggested as an important tobacco control strategy (Henningfield et al 1998).

Cigarette additives

New Zealand cigarettes contain many additives, including honey and sugars – 3.0% and 5.5% by weight respectively (Data sheet 2000). Comparisons between years suggest that the amount of sugar, honey and menthol in New Zealand tobacco in 1999 was higher than in the previous year (Daniels 2000).

The use of sweeteners in tobacco is of importance as if teenagers can tolerate their first episodes of smoking, they are more likely to continue smoking until addiction sets in. Indeed, United States tobacco industry internal documents include a 1972 memo from Brown & Williamson consultants, who recommended the company use a “sweet flavor cigarette... It's a well know fact that teenagers like sweet products. Honey might be considered.” (Schwartz 1998a)

ESR has reported on tobacco constituents for the Ministry of Health (NDP website). One of their reports has a priority list of harmful chemicals in tobacco “for monitoring purposes” which could inform “a possible strategy for harm reduction” (Fowles et al 2000). The authors report that of the tobacco additives:

“most serve an unknown purpose, and many others appear to be added for enhancing flavour or influencing pH of the tobacco, which would influence the absorption of certain compounds, such as nicotine.”

The ESR authors note that the “Canadian Province of British Columbia has instituted mandatory industry reporting of 44 chemical quantities by cigarette brand”.

Another ESR report reviews “the current scientific knowledge on the chemical constituents of tobacco smoke or cigarettes that may influence the known addictive properties of cigarettes, or otherwise enhance their sensory attractiveness, especially for young people in their first experiences of smoking” (Fowles 2001a). An ESR toxicologist has also challenged the claim of a Philip Morris spokesperson in New

Zealand that ammonia is not added to increase the amount or effect of nicotine but as “a flavourant and processing aid”. Instead, he suggests that ammonia is an unlikely flavourant (being “irritating and stinky”) and that ammonia is likely to alter the chemistry of the tobacco so as to increase nicotine absorption (Fowles 2001b).

Fire unsafe cigarettes

Another additive, at least in some cigarettes manufactured in New Zealand, is citric acid (Schedule 1999). The likely purpose of this additive is as a fire accelerant, to ensure that cigarettes continue to burn when left unattended (Laugesen 1999f). As such this additive may increase the risk of fires caused by cigarettes.

An attempt was made in 2001 to address the fire hazard posed by cigarettes in New Zealand through regulation. The prelude to the Cigarettes (Fire Safety) Bill of November 2000 in New Zealand stated that:

“In 1984 American legislation in the form of the Cigarette Safety Act was passed which mandated a three-year study into the feasibility of a fire safe cigarette. This study concluded that it was feasible to produce a cigarette with a reduced propensity to start fires and led to the passage of the Fire-Safe Cigarette Act 1990 which called for development of a test standard for cigarette fire safety. Manufacturers can meet such a test standard through such means as reducing the diameter of the cigarette, reducing the density with which it is packed, and reducing the porosity of the cigarette wrapper, thus allowing less oxygen to flow through the paper.” (NZ Parliament 2000)

In New Zealand it is reported that “about six hundred fires a year start because of the careless disposal of cigarettes” and that:

“... cigarettes are the largest single cause of fire deaths. Twenty people are killed or injured in fires caused by cigarettes each year. Treating injuries related to smoking fires is estimated to cost \$65 million each year. That doesn't include lesser burns treated elsewhere or damage to property.” (Gillon 2000)

In their submission to the Parliamentary Select Committee hearing on this Bill, BAT (NZ) appears have framed the problem as one of “careless disposal”, attempting to put the responsibility of the hazardous product onto the user. They stated that “inherent and integral to their overall design is that they can be ignited with ease and burned” (BAT NZ 2001). This statement appears to assume that ease of ignition and burning are qualities that should be valued and maintained, rather than limited.

BAT (NZ) opposed the Fire Safety Bill. They appeared to want to move the discussion on fires *from* cigarettes to the material that they ignite and the environments where the fires occur. They also asked that the tobacco industry be “full partners” in any activity about cigarette-caused fires. This is a customary approach of the industry internationally, as they wish to be seen as a legitimate part of the

community. Being “partners” with governments in any activity is part of this industry’s attempt to appear legitimate.

Imperial Tobacco New Zealand also attempted to frame the cigarette fire problem as one where “smokers should use common sense and take care” (Imperial Tobacco NZ 2001). Again this attempts to place the onus on the (usually nicotine-dependent) smoker.

Industry misuse of product design elsewhere

The misuses of product design by the industry in the New Zealand setting have been repeated elsewhere. Evidence from tobacco industry internal documents indicates that when the industry has produced new low-tar and low-nicotine products, this was an attempt to capture “health-conscious” smokers (Hurt and Robertson 1998). As noted in the start of this chapter, there may not have been any major health gains from the use of filters.

One review has suggested that on balance “low tar and nicotine cigarettes may well have increased the aggregate societal burden of smoking primarily by reducing the number of people who would have quit in the absence of their availability, and secondarily by switchers smoking more cigarettes” (ie, “nicotine regulation by smokers”) (Warner et al 1997). Tobacco industry statements are supportive of this view:

“We have evidence of virtually no quitting among smokers of these (ultra low) brands and there are indications that the advent of ultra low tar cigarettes has actually retained some potential quitters in the cigarette market by offering them a viable alternative.” (Tobacco industry document cited in Cohen 1996b)

There is also evidence that the industry has used cigarette filters to mislead smokers about their potential intake of tar and nicotine from smoking. In some cigarettes ventilation holes are built into the filter to draw in up to 80% air rather than smoke. This appears to be to ensure that when the cigarette is tested on a machine, as opposed to being smoked by humans, lower than “real life” tar and nicotine levels are measured. When they are smoked by people, the holes tend to be covered, decreasing the air intake.

“Internal tobacco industry documents released during US tobacco litigation show that the tobacco industry has known of this effect for many years, has designed cigarettes that would give low machine readings but high yield when smoked by people, and has continued to imply that these cigarettes are somehow more healthy while concealing their real dangers.” (Jarvis and Bates 1999)

A study on 92 different named brands of cigarette found that almost all the United States brands, 91% of the Canadian ones, and 79% of United Kingdom brands had ventilated filters. Multiple regression analyses showed that “ventilation was by far the

largest factor influencing machine-smoked yields of tar, nicotine, and carbon monoxide” (Kozlowski et al 1998). These authors also reported that there is research evidence that shows that smokers regularly block filter vents with their fingers and lips. They also tend to compensate for any larger quantities of air produced by the holes, by deeper and longer puffs. This can double the tar and nicotine yield they inhale.

At least one company appears to have worked to make its product even more hazardous. A California biotechnology firm DNA Plant Technology Corporation (DNAP) has pleaded guilty to conspiracy for secretly shipping high-nicotine tobacco seeds to foreign countries for cultivation. Brown & Williamson Tobacco Co was reported to have conspired with this firm to develop the high-nicotine tobacco plant (code-named Y-1) (Schwartz 1998b). The United States Food and Drug Administration (FDA) had uncovered evidence of the development of high-nicotine tobacco by the industry. The FDA also reported the apparent manipulation of cigarette design to increase nicotine content (eg, by blending) and enhance nicotine absorption (Kessler 2001).

What industry could have done

In 1999, the NGO ASH (London) and the Imperial Cancer Research Fund (ICRF) released a report on tobacco industry patents for inventions that would reduce the toxicity of cigarette smoke (ASH & ICRF 1999). This work identified 57 patents illustrating technical options for reducing specific harmful chemicals in cigarette smoke including carbon monoxide, nitrosamine and hydrogen cyanide. Commenting on the report, Dr Jarvis of the ICRF stated:

“The cigarette is like a dirty syringe for taking the drug nicotine. What we now know is that the tobacco companies could have made it less dirty. The current products cause premature death for half of all long-term smokers, so even a small improvement could save thousands of lives.” (ASH & ICRF 1999)

Examples of the patented innovations in the report that could lead to safer cigarettes included:

- “The addition of catalysts to cigarettes to reduce carbon monoxide and nitrous oxides... a similar approach to the catalytic converters used to clean motor vehicle exhausts. If used, this approach could reduce the burden of heart disease.
- Manufacturing processes that would reduce the levels of at least one nitrosamine in smokers’ lung tissue, thus reducing the incidence of cancer.
- Chemical filters that would remove large quantities of hydrogen cyanide and hydrogen sulphide while also removing acetaldehyde. This would help to reduce respiratory illnesses.”

Such harm minimisation would need to be regulated to ensure that it was not used for marketing purposes, or that it did not impede quitting attempts by smokers. However,

there does appear to be a potential for reducing harm, *if* such changes were part of a strong and comprehensive government tobacco control programme.

Summary

The tobacco industry in New Zealand appears to have misused the design of tobacco products, particularly its use of additives. Many of the design changes may have been for marketing purposes rather than for harm reduction. The industry has also opposed the removal of fire accelerants from cigarettes. The apparent focus on marketing issues and lack of concern about significantly reducing harm to consumers is consistent with the policies of the industry's parent companies and of other overseas tobacco companies.

6 Industry Opposition to Tobacco Control Initiatives

“Today’s teenager is tomorrow’s potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens The smoking patterns of teenagers are particularly important to Philip Morris ...”

(1981 report sent from researcher Myron E Johnston to Robert B Seligman, then vice president of research and development at Philip Morris in Richmond, Virginia) cited by Chapman and Davis (1998).

This section examines the key aspects of tobacco industry opposition to tobacco control in New Zealand. The industry’s opposition to health warnings is discussed earlier in Chapter 2. The overall pattern that we have identified is that the industry appears to have opposed nearly every substantive form of tobacco control in New Zealand over the past four decades. One of the few interventions supported by the industry (raising the age of legal purchase of tobacco by youth) is of doubtful effectiveness unless accompanied by expensive and persistent enforcement programmes (Rigotti et al 1997; Harrison et al 2000; Levy et al 2001). Such an approach may even enhance any “forbidden fruit” effect among many adolescents and hence make smoking more attractive.

The overt opposition to tobacco control in New Zealand began most significantly when the TINZ was formed in 1980 (McLauchlan 1990, p46). One historian of the industry described the rationale:

“As early as 1981 the [Tobacco Growers’] federation was invited to join the Tobacco Institute, especially in the fight to nullify the work of the anti-smoking lobby” (O’Shea 1997, p189).

6.1 Opposition to tobacco taxation

There is international evidence of the impact of tobacco taxation on reducing smoking – including the prevention of the uptake of smoking by young people (World Bank 1999; Jha and Chaloupka 2000). There is also strong evidence that tobacco taxes reduce consumption in New Zealand (James 1995; Thomson et al 2000; Wilson and Thomson 2000). New Zealand tobacco tax increases in 1995, 1998 and 2000 are all associated with significant drops in tobacco consumption (MoH 2001).

Despite (or because of) this evidence, the industry has always opposed any increases in tobacco taxation. For example, before the 1998 budget, a BAT spokesperson (Mr T Maguire) was reported as criticising the excise increase as “simplistic and

unworkable” and that “though designed to discourage young smokers, a further increase would mostly penalise responsible adults” (Maguire cited in Laugesen 1998f). Maguire was also reported as citing Sweden and Canada as examples of a trend that governments were reducing tobacco taxation. In response, Laugesen has noted:

“Mr Maguire’s comment is misleading. Tobacco tax has been reduced in Canada, due to smuggling, and in Sweden (see below [also due to smuggling]). Island nations are not bothered by this problem. Generally countries, and states within the USA are increasing tobacco tax, and once increased, it is seldom reduced” (Laugesen 1998g).

Canada has since introduced a tax on tobacco exports that can be reclaimed when there is evidence that tax has been paid in the destination country. This is intended to reduce the tobacco smuggling problem (Laugesen 2001).

Prior to the 1998 budget, the TINZ also attempted to pressure Government to not raise the tobacco tax level:

“In just 3 weeks, 81,791 signatures have been collected by the Tobacco Institute through a petition on the sales counter of shops selling tobacco. If the budget did include the price hike, the industry would consider re-releasing the petition, said Michael Thompson, Institute’s executive director.” (Laugesen 1998g)

Glossy cards produced by TINZ had appeared in retailers prior to the 1998 budget (at least in some urban areas). These cards invited customers to “Register your objection to the high level of tax on cigarettes and tobacco by signing the petition at your retailer” (Laugesen 1998h). One commentator considered that this petition might be effective in influencing the Government policy on tobacco taxation:

“We have been reliably informed that the Tobacco Institute petition in dairies (50,000 signatures claimed by Rothmans) may be putting pressure on Cabinet to not approve or to minimise any tobacco tax increase ...” (Laugesen 1998i).

Also during 1998 TINZ was reported as having written to MPs saying that:

“every time cigarette and tobacco tax goes up, tobacco company staff receive complaints from the public. They are very surprised when informed that around three-quarters of the price they pay to the shopkeeper is Government tax, mostly tobacco tax.” (Thompson cited in Laugesen 1998j)

This communication also stated that it was “unfair that pensioners should have tobacco tax imposed on them to dissuade young people from smoking... especially when there is no evidence that tax stops young people from smoking”. Such a statement is misleading, given the large body of evidence that indicates that tobacco

taxation is effective in preventing the uptake of smoking by young people (eg, World Bank 1999).

An indication of the potential power of industry lobbying on the taxation issue can be seen in a 1993 Treasury briefing paper. The paper put the case against an equalisation of tobacco taxes for loose and cigarette tobacco. It stated that this equalisation: “could ultimately lead to revenue losses if manufacturers use the change to lobby for excise reductions on standard cigarettes” (Ahern 1993).

6.2 Opposition to restrictions on tobacco promotion

Tobacco industry documents suggest that the industry had stopped television advertising in 1962 “after a row with the TV companies about pricing of commercials. However, what was probably meant as a short-term ploy became permanent when the TV authority refused to allow cigarette advertisement[s] back on TV” (Industry Document 1978).

The television and radio advertising restrictions were not a major constraint on the industry. Many other advertising avenues still existed in the early 1970s (including print media, billboards and cinemas) and there were also sponsorship opportunities. Internal industry documents suggest a reluctance to reduce advertising further: “I think we should quite definitely fight restrictions on the use of cinema advertising, radio and T.V. mention of sponsorships etc, etc” (Rouse 1972).

In 1979 some restrictions on advertising in the print media were introduced (TSB 1989, p98). The agreement was the result of long negotiations between Government and industry, with the industry appearing to oppose all restrictions. The evidence for this is the correspondence and the minutes of meetings with officials, in the Department of Health (DoH) file at National Archives, H1/34/74 – ABQU W4550. There are also minutes for two meetings with Ministers of Health ie, with Gill on 5/9/78 and with Gair on 24/1/79. Although cigarette print advertising fell 50% from 1977 to 1987, there was a major increase in televised tobacco industry-related sponsorship (by about tenfold) over this same period (TSB 1989, p98).

Opposition to the advertising ban proposals in 1990 and afterwards

Internal industry documents have revealed the role of the tobacco industry in the 1990 visit to New Zealand of a New York marketing professor, J.J. Boddewyn. His visit was formally to support the Newspaper Publishers’ Association, since this organisation opposed the proposed advertising ban in the Smoke-free Environments Bill. Nevertheless, the documents reveal that it was initiated and arranged by TINZ, with Philip Morris agreeing to pay the academic’s \$US 10,000 fee and \$US 5000 expenses (Renshaw 1990a; Renshaw 1990b). TINZ appeared to want to downplay its involvement as far as the public was concerned:

“Please understand that though this institute has made all the various arrangements with you, your visit to NZ will formally be at the invitation of, and in support of the Newspaper Publishers’ Association.” (Renshaw 1990a)

Furthermore, in a letter to Boddewyn, TINZ outlined what it wanted the Select Committee to be told: “Our evidence will prove that advertising has little or no effect on children” and that “ad bans do not work” (Renshaw 1990c). This letter also stated that:

“we will need to counter the regularly expressed claims by the Minister and her supporters that in New Zealand 4000 deaths are directly attributable to smoking and 273 deaths are caused by passive smoking each year.”

In response to media inquiries in 1999, TINZ Director, Michael Thompson was reported as having:

“denied the Institute told Professor Boddewyn what to say. .. What we did was outline to Professor Boddewyn what the committee hearings were about so he could decide what line he might take” (*The Press* 1999).

Even after the passing of the SFE Act in 1990, the tobacco industry still managed to find ways to promote its products. Reviews of the industry’s marketing have argued that in the early 1990s there was still extensive tobacco advertising in retail outlets and also sponsorship advertising in all media including television (Weir 1995a; Weir 1995b). Furthermore, Weir suggested that the industry also exploited loopholes in the SFE Act by producing new advertisements under the guise of these being “price-notices” (Weir 1995b). Other types of retail displays were also used as advertisement substitutes (Fraser 1998).

In 1993 the Public Health Commission proposed tightening the enforcement of retail sales restrictions. An internal Wills (NZ) letter notes that this enforcement “has been sporadic to date” but saw the potential threat to the industry of such enforcement. The potential was one of the three areas of particular concern to the industry (along with taxation and plain packaging proposals) (Owen 1993a). Well-designed and implemented retail sales restrictions may have some effect on the *sale* of tobacco to youth (Bauer and Cook 2001; Stead and Lancaster 2000). It is thus ironic that the BAT spokesperson Vickie Curtis has been since reported as saying that “underage smoking was a problem in New Zealand, given that it had risen over the past 10 years” (*NZ Herald* 2000b).

A ban on tobacco product advertising in shops came into effect in December 1994 and nearly all sponsorship of tobacco products ceased in 1995. Nevertheless, there appears to have been further actions by the industry to circumvent the law. For example, in 1999 a dairy owner showed ASH (NZ) a contract with Rothmans that required the dairy owner to prominently display cigarettes (Laugesen 1999g). The contract required the owner to ensure the unobstructed display of cigarettes in the product display units, including counter displays and dispensing units. The contract read: “The units must be maintained as positioned by the Rothmans representative and remain fully visible to the consumer at all times.”

Incentive schemes for the positioning of tobacco products in shops have been illegal since 1997, when the SFE Act was amended. That is, clause 28(1) states: “No person

shall offer to any retailer, any gift or cash rebate, or the right to participate in any contest, lottery or game, as an inducement or reward in relation to – (i) the purchase or sale of tobacco products by the retailer, (ii) the advertising of tobacco products inside the retailer’s, place of business, or, (iii) the location of tobacco products in a particular part of the retailer’s place of business.”

One Auckland dairy owner gave an opinion on the large display of Rothmans products in their shop: “It’s not a small display, it’s humungous. If you look at it you can’t get better advertising than that” (Masters 1999). In responding to this issue, a Rothmans’ spokesperson Peter Lorrigan, was reported as saying that the agreements, which varied from retailer to retailer, paid a rental to shop owners. Comment in the *Smokefree News* was that:

“Rothmans, it seems, rent the space from the retailer, then have its own staff arrange the cigarettes, thus hoping to circumvent the Smoke-free Environments Act as amended in 1997, which prohibits incentives paid to retailers.” (Laugesen 1999h)

This approach to point of sale display of cigarette packets by the tobacco industry suggests that the tobacco industry was breaching the spirit of the SFE Act 1990, as amended. Furthermore, the industry still benefits from its products being displayed on television (Thomson and Wilson 1998), cinema (Philp 1998), in imported magazines, and from the advertising value of the packet itself.

As noted in Chapter 2, the industry opposed regulatory and legislative moves to warn the public about harm for smoking. In 1994, the Government announced that it intended to amend the SFE Act 1990 (with amendments covering the legal purchase age, size of packets, health warnings, and price notice restrictions). One industry response was to persuade the Minister of Health to direct the Ministry of Health to re-consult over the SFE Act amendments (Curry 1995b).

Furthermore, the industry in 1996 asked Cabinet to defer any decision until other process steps were carried out. In response the Cabinet “invited” the Minister of Health to investigate further (Cabinet 1996). It was not until 1997 that the Amendment Bill to the SFE Act was finally passed. This three year time delay suggests that either industry delay tactics were somewhat successful or else the Government performed poorly in advancing its legislation (or both).

The industry also managed in 1995 to get agreement from Government on a code of practice for price notices at the point of sale (Smyth 1995b). This was a retrograde step, reverting to the style of agreements before 1990, which helped give the industry legitimacy. This code of practice has now been phased out.

Promotion and sponsorship targeted at youth

There had been a voluntary agreement between the Department of Health and the tobacco industry from 1973, that the industry would not target youth by advertising (Kapoor 1980, p6). However, it appears that the industry didn’t fully follow this

agreement. In 1987 there had to be a new industry agreement with the Government to ensure that the industry would not advertise in certain magazines which had a high percentage of their readership among adolescents (eg, “Dolly” and “Charlie”) (TSB 1989).

While the industry claimed that it was not encouraging young people to smoke, some industry print advertisements used phrases popular with teenagers. For instance, “go for it” was used as a slogan in Peter Jackson advertisements (McLauchlan 1990). In November 1989, Rothmans recruited students to give free cigarettes out. Rothmans were reported as saying that they would only use students over 25 years (TV3 News 1989).

The intensive sponsorship of sport by the industry also helped expose the tobacco brands to a large number of young people. One 1990 article noted that:

“The Stanley Street tennis courts in Auckland looked like a Benson and Hedges packet during the international tournament in January, which was the sponsoring tobacco company’s aim.” ... “The advertising for the New Zealand Grand Prix at Pukekohe in January looked as much like a Peter Jackson commercial, complete with raunchy jingle, as it did a promotion for the motor racing, which was doubtless the intention” (McLauchlan 1990, p41).

The industry argued that it used sponsorship to contribute to the community. However, the industry could have benefited the community without directly influencing young people. It could have given the money without adding its product brand names, or it could have focused on sponsorship of services for older people.

Surveys on the question of sponsorship and its affect on smoking behaviour were taken on behalf of the industry in 1978, 1982, and 1988 (MRL Research Group cited in the TSB Report (1989, p49)). Some of the wording of these survey questions appears to be designed to produce answers favourable for the industry. Nevertheless, in one 1988 survey 17% of people disagreed with the poorly worded statement “Sponsorship of sport by cigarette companies will not encourage me to take up smoking”. Even that response should have warned the industry of the significant dangers of recruiting a proportion of youth, if the industry *was* concerned about that danger.

One of the most recent attempts at what appears to be specific youth marketing by the tobacco industry in New Zealand was reported by Andrew Stone in 1998 (Stone 1998). A combination of music CD covers and magazine pages, both using the Dunhill cigarette colours and a similar layout, appear to have been an attempt to associate dance party culture with the brand.

Currently, the tobacco and cigarette packets, and displays of smoking by adults and other youth, appear to be major ways in which the industry in New Zealand is able to influence young people to feel that smoking is attractive. Tobacco products and smoking are shown on television, film (Sargent et al 2001), in glossy magazines and the products are displayed in shops. It appears likely that the industry will continue to attempt to find further ways to target youth in New Zealand. Not to do so here would

be exceptional for the companies, who market to youth in a wide range of developed and less developed countries, as well as using transnational marketing such as satellite transmission of motor-racing sponsorship.

The evidence elsewhere regarding the tobacco industry and the promotion of youth smoking is considerable. Studies in the United States and elsewhere have found that the industry violated voluntary codes on advertising to young people (Barbeau et al 1998) and that youth marketing has been very effective (Biener and Siegel 2000; MacFadyen et al 2001). In many countries the youth marketing is blatant (eg, Seimon and Mehl 1998). Other direct evidence comes from a review of the internal documents produced by affiliates of BAT and RJ Reynolds (RJR) in Canadian litigation (Pollay 2000). The findings indicated that the industry undertook careful and extensive research about youth smokers (“starters”) in all the stages of producing cigarette advertising:

“To recruit starters, brand images communicate independence, freedom and (sometimes) peer acceptance. These advertising images portray smokers as attractive and autonomous, accepted and admired, athletic and at home in nature. For ‘lighter’ brands reassuring health concerned smokers, lest they quit, advertisements provide imagery conveying a sense of well being, harmony with nature, and a consumer’s self image as intelligent.”

This review concluded that the industry’s assertions that its advertising influences only brand loyalty and switching “is directly contradicted by their internal documents and proven false”. The review also refuted the justification of cigarette advertising as creating *better-informed* consumers, “since visual imagery, not information, is the means of advertising influence”. Actual examples from the industry’s documents as cited by Chapman and Davis (1998) are as follows:

“Today’s teenager is tomorrow’s potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens. At least a part of the success of Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older. ... The smoking patterns of teenagers are particularly important to Philip Morris. ... The share index is highest in the youngest group for all Marlboro and Virginia Slims packings.” (1981 report sent from researcher Myron E Johnston to Robert B Seligman, then vice president of research and development at Philip Morris in Richmond, Virginia.)

“The studies reported on youngsters’ motivation for starting, their brand preferences, etc., as well as the starting behavior of children as young as 5 years old. ... The studies examined examination [sic] of young smokers’ attitudes towards ‘addiction’, and contain multiple references to how very young smokers at first believe they cannot become addicted, only to later discover, to their regret, that they are.” (“Apparently Problematic Research,” a B&W Document. *Minneapolis-St. Paul (Minnesota) Star Tribune* 1998; March 8.)

“Evidence is now available to indicate that the 14-to-18- year-old group is an increasing segment of the smoking population. RJR-T must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term.” (1976 Claude Teague draft report, “Planning Assumptions and Forecast for the Period 1977-1986 for RJ Reynolds Tobacco Company.”)

The first public admission by a tobacco company that the industry markets to youth was reported to have been made in 1997: “Liggett acknowledges that the tobacco industry markets to ‘youth’, which means those under eighteen years of age...” (Bennett LeBow, Liggett Group Inc., in Dade County Circuit Court, 20 March 1997, cited in Heyes 1999, p12).

Opposition to the control of packaging

“... the industry in New Zealand is calling for an international approach to this issue by using international conventions and treaties governing intellectual property and trade marks to politicise the issue and shift the ground away from health activists and into the real world of trade, commerce and commercial freedom of speech.”

From a 1993 letter by John Owen, Public Affairs Manager of Wills (NZ) (Owen 1993a)

Besides opposing health warnings, the industry has been very opposed to the control of packaging, particularly the idea of generic or “plain” packaging. Such control is a special threat to the industry in New Zealand, as advertising and retail display restrictions limit their ability to otherwise market their products. Below are some of the internal Wills (NZ) documents that show the concern.

- A 1989 Wills (NZ) public affairs strategy document which stated:

“Wills strategy should be to ensure that: ... (c) proposals for generic packs are rejected, are not for negotiation and are regarded separately from the main issue of restriction. In this way the company and the industry will not be vulnerable to bargaining tactics which exploit the generics threat. ... (5). In addition to legal factors, the industry should ensure that its argumentation highlights the many practical problems ...” (Wills 1989)
- The July 1993 letter by John Owen (Public Affairs Manager of Wills (NZ)), about the new Public Health Commission draft paper on tobacco.

“Attacks on our brands: Laugesen repeats the call to “deglamorise” the product by moves towards a plain pack a la Australia. I am aware that David Bacon is in Australia at the present time apparently assisting with possible

arguments against packaging proposals there. ... the industry in New Zealand is calling for an international approach to this issue by using international conventions and treaties governing intellectual property and trade marks to politicise the issue and shift the ground away from health activists and into the real world of trade, commerce and commercial freedom of speech.” (Owen 1993a). (David Bacon was in 1998 the BAT head of corporate communication (Graves 1998)).

- A September 1995 letter from BatMark (part of BAT in Britain) to BAT (NZ).

“Many thanks for your letter concerning generic packs and the influence of the intellectual property argument. I must say I think you and the industry have made tremendous progress on this issue.

I discussed your thoughts with David Bacon ... he tells me that there is a wide ranging proposal to develop an industry argumentation. ... if it is desirable to hold the International Trademarks Association conference in New Zealand, then we will certainly do all that we can to influence their decision. I would also like to think that we can use this very effective approach worldwide ...” (Viner 1995).

- Phil Tunstall of Wills (NZ) sent a letter in September 1995 to BatMark with a copy of a legal opinion by Sir Geoffrey Palmer on a private member’s Bill on alcohol advertising. The opinion had relevance to the control of packaging. Tunstall wrote:

“.. there are a number of interesting aspects to the enclosed opinion which could have relevance to tobacco in a number of countries. ... it would appear from the research done by Chen and Palmer that most western nation’s Bill of Rights express similar sentiments regarding the right to communicate.

... Sir Geoffrey’s opinion has been provided to us by good friends of ours and would have been an expensive piece of legal work which we received at no cost.” (Tunstall 1995)

Front groups for the industry

When in mid 1989 it was clear that the Minister of Health was likely to introduce significant smokefree legislation that would restrict tobacco sponsorship (Thomson and Wilson 1997, pp39-40), TINZ responded in several ways. One response was to organise “Operation Leo” – a plan to counter the Government’s smokefree plans. Within “Operation Leo”, there was a specific plan “Operation Bo-Beep”. This was for “the development of an Alliance of New Zealanders for the Right to Decide” and “the formation of a smokers’ rights group” (Thompson 1989).

The nature of such groups was explored by an investigative journalist in 1990 (McLauchlan 1990). He reported that the lobby group “New Zealanders for the Right

to Decide” was fronted by the sportsperson John Adshead. Yet this group was actually run by a public relations firm, Burson-Marsteller, who had run a similar scheme in Canada and was paid for by the industry (McLauchlan 1990, pp40, 47). Indeed, the Burson-Marsteller employee being interviewed was reported as saying: “It’s a pretty transparent kind of arms-length funding for a pretty transparent front organisation, but it works” (McLauchlan 1990, p40).

It has been reported that “Adshead himself, in his verbal submissions to a select committee, conceded that tobacco companies provided the bulk of the alliance’s funds” (Deeks 1992). The campaign appeared to involve sending letters devised by Burson-Marsteller (and produced on its word processors) opposing the tobacco promotion ban. McLauchlan stated that some MPs had claimed to have received 1500 identical letters. A Burson-Marsteller employee and John Adshead were reported as also directly lobbying MPs.

Deirdre Kent, then Director of ASH, found the front groups elusive:

“The ‘designer’ pressure group, New Zealanders for the Right to Decide. I tried to find their office, which moved, and was first of all in Glen Innes, and didn’t exist, and then it was around the corner from us. I went up there to see if there was anybody there in the office. Couldn’t find anybody. It didn’t exist. They had it operating from out of the Tobacco Institute.

This group lost ground from January onwards in 1990. My mission was to make them lose credibility. By constantly saying they had no office, and getting on their mailing list. It was really critical that we had people on their mailing list.

The industry lost their supporters. John Adshead stayed, he was the one that went to parliament. But others didn’t stay. There were quite prominent people in the sports field that just faded out to nothing.” (Interview 1997)

An offshoot of the 1990 campaign by the industry was the full-page advertising from the “Sports People for Freedom in Sport” (Carr-Gregg 1993, p36S). This was another front group run by a public relations agency owned by Andy Haden and hired by TINZ (Deeks 1992). “People United for Fairness” (PUFF) was a further group that researchers have suggested was industry-organised (as discussed in Cornuz et al 1996).

This use of front groups by the industry to oppose tobacco control initiatives is not uncommon. The employment by the tobacco industry of public relations agencies and front groups is detailed in the international literature. Case studies of tobacco control in communities in California have shown that:

“The tobacco industry has moved beyond organizing smokers to use professional public affairs and political campaign firms to defeat or weaken local tobacco control ordinances. The industry used front groups to conceal its involvement because public knowledge of the industry’s involvement increases support for legislation controlling smoking. Some firms closely monitor developing

ordinances, while others actively organize and direct local opposition.” (Traynor et al 1993)

An example of one public relations approach in the United States is detailed in an industry document:

“TI should have a plan for raising much more ‘commotions’ on social acceptability issues. As used here, a ‘commotion’ is something that a public affairs officer makes happen in order to publicly challenge erroneous conventional wisdoms about smoking, smokers or the tobacco industry. Examples of public affairs commotions are such things as stimulated editorials or columns, public hearings, conferences, placements on op ed pages, producing and announcing special polls, and assisting articles to be published in scholarly journals.” (Durden 1978)

Industry submissions and reports

The production of sponsored publications and submissions is another industry tactic by which to oppose Government tobacco control plans. In New Zealand and elsewhere, the industry has been very concerned to obscure and dispute the links between their advertising and promotion, and youth smoking uptake.

One example is the 1988 publication: *“Why do Juveniles Start Smoking? An international study of the role of advertising & other contributory factors in New Zealand & ten other countries”* (CRU 1988). The report was prepared by “The Children’s Research Unit (CRU), London”. This organisation has taken part in tobacco industry defences of their “right” to advertise and sponsor. Documents showing this include two from the BAT material gathered by the Canadian Government (Jenkins 1991; BATCo 1992). The first of these is a 1991 report on a 1988 survey of New Zealand children. The report purports to show that sponsorship has very little or no effect on smoking uptake.

The Chairman of the CRU (Glen Smith) also took a special interest in New Zealand and made a submission to the Toxic Substances Board on the smoking and advertising issue (Smith 1989). He was a guest speaker at the October 1986 INFOTAB/NMA workshop in Brussels, which Michael Thompson of TINZ attended (INFOTAB 1986). Mr Smith was in 2001 the CEO of the “Youth Research Group” and the “Commissioning Editor of the International Journal of Advertising and Marketing to Children” (see the Youth Research Group website).

The person introducing the 1988 CRU publication, Professor JJ Boddewyn, is known to have been funded by the industry (as detailed above in Section 6.2). The report stated in the preface:

“The New Zealand study results are an underlining of the already established international patterns. They show that the decision to start smoking relates to personal, social and cultural factors and appears to be unrelated to advertising” (CRU 1988).

Subsequently JJ Boddewyn “introduced and edited” two other CRU reports on the theme of juvenile smoking initiation and advertising (as detailed in the preface of CRU 1989). This last publication stated that it was sponsored by INFOTAB (ie, the International Tobacco Information Centre). A Medline search revealed only one publication associated with the CRU (London) – and this was on the same subject of smoking and advertising’s role in ‘not’ attracting youth to smoking (Smith 1989).

In May 1989 the Toxic Substances Board (TSB) produced a report with evidence and arguments for a range of tobacco control measures in New Zealand (TSB 1989). The industry reacted to this work by publishing a critical review of it in July 1989 (TINZ 1989d). This TINZ report could be considered misleading in the sense that it was titled “an independent scientific review”. At least one of the contributors was an industry employee (ie, S Boyse of BAT) and some others were known to have done ongoing contract work for the industry (eg, Mr PN Lee – see Chapter 4). The press release from TINZ was also potentially misleading in that it described the work both as an “independent scientific review” and one prepared by a panel of “distinguished international scientists” (TINZ 1989b). The press release did not mention that the report was commissioned by TINZ or that at least some authors were either contractors for the industry or employed by the industry.

There was international concern by the tobacco industry about the TSB Report because “the original TSB study has been used against the industry at least in the US Congress, Canada, Australia, the European Parliament, and in Scandinavia”... “We understand that the TINZ are currently planning the tactics and contents for further rebuttal work...” (INFOTAB 1990).

TINZ also made a submission in response to the TSB recommendations. Appended to this submission was a study of 16 countries undertaken by the International Advertising Association (IAA). The quality of this IAA study was critiqued in the 1989 TSB report which found the IAA brochure to be “deficient and the conclusions simplistic, unjustified, erroneous and misleading” (TSB 1989, p61).

While the tobacco industry in New Zealand continued to claim that advertising didn’t influence smoking rates and that “advertising bans don’t work” – it is likely that they knew that their parent companies’ research had shown otherwise. BAT’s own commissioned research had indicated that advertising restrictions did decrease sales (eg, in the United Kingdom and United States markets following advertising restrictions). A BAT research report specifically for the New Zealand market stated: “Decline in market growth in 1963, 1964 and 1965 following television and radio advertising ban (and possibly influenced by 1st U.S. Surgeon General’s Report).” (BAT 1975)

6.3 Opposition to smokefree environments

The industry opposition to the Smoke-free Environments legislation of 1990 (as detailed in Section 6.2 above) involved resistance to smokefree environments. The legislation covered restrictions on sponsorship, advertising and smoking in various

settings. Further industry activities against regulations to prevent harm from second-hand smoke are detailed below.

Countering local smokefree environments

The first comprehensive smokefree laws in New Zealand were passed by the Waitemata City Council in 1986. The tobacco industry fought back. Deirdre Kent, then Director of ASH found that:

“The worst part of it was that the Tobacco Institute brought a legal suit against the Waitemata City Council. It cost them \$40 000 to fight it. The Institute claimed it wasn’t in the Council’s powers to make the by-law. The Council won it, but the action managed to stop all the other councils around New Zealand from following suit, which was their purpose. For 18 months the case dragged on, and during that time, no other council was game to follow.”
(Interview 1997).

The Auckland City Council also considered restricting smoking in public places. In response, the TINZ Director addressed the Council and participated in a “lively question time and subsequent debate” and the proposal was defeated by a vote of 11 to 9 (TINZ 1986b). TINZ considered that:

“... it is clear to TINZ that if it had not presented the industry’s case the proposal would have succeeded”.... “It is TINZ’s intention to maintain appropriate intelligence on Council’s activities and to lobby those councillors who rejected the proposal plus those who supported it who may be susceptible to a change of attitude”.

This TINZ report was circulated internationally since, according the author, it “will be of interest and encouragement to our international associates”.

Industry promotion of ineffective controls of second-hand smoke

“Certainly, I have sought funding to assist with publication costs of informational brochures”... “If we can get some funding from the Tobacco Institute to improve the environment, that seems to be a sensible thing to do”... “Our position has got absolutely nothing to do with the tobacco industry’s position, although on this occasion it does coincide”.

Hospitality Association of New Zealand Director Bruce Robertson
(Maling 2000)

As discussed in Chapter 4 the industry has obscured the dangers of second-hand smoke. As part of that strategy, they have attempted to pose alternatives to smokefree policies as acceptable and profitable. One alternative they have pushed is ventilation, an approach that is actively promoted by Philip Morris:

“Today, however, business owners are looking to go beyond separate sections to better plan space and install more effective ventilation systems. This is not only to ensure customer satisfaction, but—in some U.S. cities—to meet local laws requiring separate ventilation systems for smoking and nonsmoking sections. Selecting among the various choices in ventilation systems can be daunting for business owners, who are rarely experts in air flow and purification. Philip Morris aims to make it easier for business owners to understand their options. The company is also helping the HVAC [heating, ventilation and air-conditioning] industry explain and market its systems to the hospitality industry. ... Philip Morris recently launched the Web site *www.pmOptions.com*, an online resource for hospitality and HVAC professionals who want to deal constructively with the issue of public-place smoking. ... The site offers case studies, as well as a computer-generated ventilation assessment. The site also provides information on ventilation principles, explained in layman’s terms. ... Hospitality professionals can sign up for a free consultation with a ventilation engineer through the site.”

“ ‘The goal of our Options initiative is to address the issue of public-place smoking through ventilation technology so that everyone can be accommodated in a welcome environment,’ said Ellen Merlo, senior vice president, Corporate Affairs, Philip Morris USA.” (Fisher 2000)

This and other industry statements deflect attention from the second-hand smoke hazard issue towards one of comfort, civility and choice. Broadening the discussion (eg, by including all air quality issues) helps to diffuse the issue away from the health hazard of second-hand smoke. Seeming to contribute to a solution by advocating ventilation also helps the industry avoid regulations to ban smoking in indoor environments, the only really effective solution to second-hand smoke risks.

In New Zealand, the solution to second-hand smoke hazards advocated by the tobacco industry is remarkably similar to that suggested by the Hotel Association of New Zealand (HANZ). The HANZ publication “*Clear the air*” contains, under the title “*Courtesy and consideration*” the statement:

“... smokers and non-smokers. But these two groups can co-exist without problems. When you ensure that indoor air quality is of the highest standard you not only have no problem with tobacco smoke ...” (HANZ c1997)

The position of HANZ on the health risks of second-hand smoke also appears to be very similar to that of the tobacco industry. The HANZ chief executive Bruce Robertson has been quoted as saying “... science has not established a link between passive smoking and cancer” (Paltridge 2001a). In commenting on some research on second-hand smoke, he was reported as stating that: “It does not show that there is any greater health risk associated with second hand smoke...” and that “A seven year study by the World Health Organisation found no links between passive smoking and health risks” (*Evening Post* 2001).

HANZ has recently been partly funded by the tobacco industry in its efforts to resist laws protecting hospitality staff from second-hand smoke. Mr Robertson has been reported as saying:

“Certainly, I have sought funding to assist with publication costs of informational brochures”... “If we can get some funding from the Tobacco Institute to improve the environment, that seems to be a sensible thing to do”... “Our position has got absolutely nothing to do with the tobacco industry’s position, although on this occasion it does coincide”. (Maling 2000)

The Minister of Health has written to HANZ to express concern about the HANZ opposition to the protection of workers from second-hand smoke “without any apparent consideration of, or reference to, hard science and published evidence” (King 2000b). She expressed surprise that the Executive Director of the TINZ presented the “science” segment of the HANZ symposium in 2000 on second-hand smoke.

6.4 Opposition to individuals and organisations involved in tobacco control

The industry and the Public Health Commission

“Clearly, we can’t take the total credit for its demise and individuals like Dr Laugesen won’t go away but the death of the PHC is a damn fine Christmas present” Jim Burns (Corporate Affairs Manager of Wills (NZ)) (Burns 1994)

The TINZ appears to have taken a leading role in gathering support across a wide range of industries for opposition to the Public Health Commission (PHC) (Hutt and Howden-Chapman 1998, p92). The PHC was a semi-independent agency specially created to achieve public health objectives and was only in existence during 1993-95. The tobacco industry reaction to the PHC may have been due to its work in such key areas of tobacco control as tobacco taxation (eg, James 1995).

BAT internal documents indicate that the tobacco industry saw the PHC as “health activism gone mad” with a “health based social engineering agenda”, and as a “loose cannon” in the “anti-tobacco debate”. The industry appears to have seen particular PHC staff, including Dr Murray Laugesen and Dr Gillian Durham, as threats. The industry appears to have had the demise of the PHC, and the direct control by Ministers of any official *advice* on tobacco control, as objectives. It appears to have claimed some credit for the demise of the PHC. The private industry response to a PHC draft paper on tobacco included the following:

“This paper is one of 15 produced by the PHC and it is a case of health activism gone mad. ... Despite legislative requirements for the PHC to consult with appropriate organisations and other members of the public, we were not

approached during the preparation stages of this document. Neither were other industries affected by other papers. We bombarded the Associate Minister of Health with faxes over this oversight which he took to Cabinet last Monday and we have been invited to suggest guidelines for future consultation.”

“The industry has recorded with some vehemence in a letter to the Minister that claims by Laugesen that the present Act is being flouted are untrue. It is unlikely that the present Government will implement any of the policy paper and we can only hope for it to win another term in November. A Labour Government with Helen Clark as Deputy Prime Minister and Health Minister, would act very quickly to implement most if not all of this paper. Most of it can be done by regulation under the existing legislation giving us little or no chance to make submissions through a Select Committee process.” (Owen 1993a)

The PHC considered the early tobacco control draft to be at the “pre-advice” stage rather than a consultation document (Howden-Chapman 1998, p92).

Other internal industry documents stated:

“The establishment of the Public Health Commission has seen the development of a broad “health” based social engineering agenda with particular focus on the Western “nasties” of tobacco, alcohol and animal fats. New Zealand’s political climate is volatile to say the least. If Labour is elected we can expect the Tobacco Product Paper to form a large slice of their health policy. If the present Government is returned certain aspects of that paper could also surface as amendments to the Act.” (Owen 1993b)

“Clearly, we can’t take the total credit for its demise and individuals like Dr Laugesen won’t go away but the death of the PHC is a damn fine Christmas present.”... “There is a vague idea that funding for the B&H Tennis and Rothman’s Rally might come from saving through merging the PHC back into the Ministry of Health or alternatively that the demise of the PHC was the price demanded by Cabinet Ministers opposed to not granting the sporting exemptions.” (Burns 1994)

“The death of the PHC at least removes an independent, extremely well funded loose cannon from the anti-tobacco debate although having its former chief as deputy chief of the Health Ministry is not helpful.”... “However, at least she is now obliged to operate within the confines of the Civil Service – which was our second objective – the first to see the PHC disbanded.” (Burns 1995a)

When details about these industry documents were revealed in the media, a BAT spokesperson (John Galligan) was reported as dismissing them as being old and being quoted out of context for “political purposes” (Paltridge 2001b). Galligan was also reported as stating that the Commission was “acting without being accountable to the Minister of Health and Parliament.” However, the statement appears to confuse accountability with the right and duty to give

independent advice. The legislation setting up the PHC required it to be accountable, through its Board, to the Minister of Health. What the tobacco industry appears to have been concerned with was the ability of the PHC to give, through the Board, independent advice on public health matters.

The industry and the World Health Organization

The World Health Assembly of the World Health Organization (WHO) in 2001 passed a resolution that recognised the subversive role of the tobacco industry. The Assembly expressed:

“great concern (about) the findings of the Committee of Experts on Tobacco Industry Documents, namely, that the tobacco industry has operated for years with the expressed intention of subverting the role of governments and of WHO in implementing public health policies to combat the tobacco epidemic.” (Consumers International 2001)

The Committee of Experts on Tobacco Industry Documents reported in July 2000 that:

“Evidence from tobacco industry documents reveals that tobacco companies have operated for many years with the deliberate purpose of subverting the efforts of the World Health Organization (WHO) to control tobacco use. The attempted subversion has been elaborate, well financed, sophisticated, and usually invisible.” (Zeltner et al 2001)

Framing the issues to blame others

Another industry strategy has been to frame media and public discussion of tobacco in terms of restrictions on rights and the harm to business, rather than on the provision of rights and the protection of health by smokefree environments and other tobacco control measures. For instance, a 1989 Wills (NZ) public affairs strategy document states:

“Will’s strategy should ensure that: ... (b) the focus is upon the government’s restrictive proposals as a whole ... (e) the consequences of restriction on Wills and its workforce are seen publicly to be directly attributable to government action and not BAT policy. ... In assigning responsibility for the damaging economic and social consequences of restrictive legislation, the industry should always target government. The Coalition should not be identified specifically and allowed to take any credit. The Coalition should be seen as the creator of problems for the government.” (Wills NZ 1989)

The “Coalition” referred to appears to have been the health advocacy pressure group the Coalition Against Tobacco Advertising and Promotion, which was formed in

February 1989 (Carr-Gregg 1993) and worked for the passing of the 1990 Smoke-free Environments Bill. It is not the current Smokefree Coalition.

Framing the opposition as extremists and other tactics

Labelling opponents as moral extremists has been a common industry tactic internationally, along with associating tobacco control with authoritarian regimes and practices. One internal industry document from 1992 identifies this industry approach to the anti-tobacco movement. The tobacco industry author noted that it was the TINZ Director who had asked him to speak on this subject at an Amsterdam meeting of the industry:

“We have to walk out, speak out, infiltrate, trying to discredit this movement and support all people who are prepared to denounce the follies and fallacies of medicine, puritanism, moralism, social terrorism and all ideologies of that kind who are not to be considered anymore as a risk factor but as a direct cause of state control and totalitarianism.” (Donck 1992)

In New Zealand, a BAT (NZ) spokesperson has stated that:

“Some bureaucrats and associated lobbyists, marching under the banner of the Smokefree legislation, in their efforts to stamp out smoking were now showing a zealous passion bordering on the illogical and irrational.” (BAT NZ 1998)

The issue of *Tobacco Times* with this statement also included a sample of newspaper articles that were all critical and often denigrating towards health officials and smokefree advocates. Along with the articles decrying the “dictatorial attitude of some zealots” was a cartoon of Health Ministry officials in Nazi-style uniforms.

These tactics have been widely used elsewhere. In a review of industry procedures, Sweda and Daynard (1996) found that the industry spends large sums of money to portray its adversaries as extremists and to frame the public debate about smoking regulations around “rights and liberty” rather than health. They also note a Philip Morris Document in 1981 on dealing with individual scientists who had reached findings troublesome to the industry. The document recommended “attacking researchers themselves, where vulnerable” (Memorandum to Cullman cited in Sweda and Daynard 1996). The industry tactics against scientists have sometimes been described as “bullying” (Marshall 1987). Industry documents from 1978 also give some indication of the approach taken:

“We cannot hope to win in a head-on confrontation. Our tactics must be to discover our opponents’ weaknesses, attack those particular points, cause as much confusion as possible, and attack somewhere else while their attention is distracted. Our method of attack must be constantly varied so as to deprive our opponents of a clear target. Surprise is a key element. Applying this philosophy, we are continually studying our opponents and their strategy to discover any areas where we can embarrass or even defeat them. ... At Philip

Morris, we have made good use of our film library as a means of informing influential contacts that there is a continuing controversy over smoking and health, despite the repeated denials of the anti-smoking organisations.”
(Cullman 1978)

Some of the most direct action by the industry has been against a tobacco industry whistleblower – reportedly in the form of a smear campaign, death threats against his children, and being followed (Kleiner 2000). More recently in the United States, RJ Reynolds launched a defiant advertising campaign for Camel cigarettes. According to Heyes this campaign was “portraying antismoking activists as a bunch of no-fun puritans and playing up smoking as a forbidden pleasure” (Heyes 1999, p135). The idea that governments and health activists are forcing smokers outside has been a consistent theme in tobacco advertising throughout the world.

Litigation against opponents appears to have been a common tobacco industry tactic. For example, in 1987 the Dutch Foundation on Smoking and Health was sued by the industry after stating the dangers of tobacco smoking. Although the industry lost and agreed to pay the legal costs, the long-term legal action was used to harass the Foundation for nearly four years (Sweda and Daynard 1996, p191). Other examples cited by these authors included industry legal action against the local Government of Provincetown, Massachusetts, regarding its ban on cigarette vending machines, and New York City on its plans to ban taxicab-top cigarette advertising.

The industry took legal action in 1995 against the United States Government, over the release of the Environmental Protection Agency report that had classified environmental tobacco smoke as a “group A carcinogen” (Todd et al 1995). The Australian Government’s National Health and Medical Research Council (NHMRC) was taken to court by the Tobacco Institute of Australia (TIA). The TIA slowed the official advice on second-hand smoke to Government by this move (Jamrozik et al 1997). The industry has also taken on the Canadian Government for, as stated by Sweda and Daynard (1996, p191) “presuming to have the constitutional power to ban cigarette advertising”.

6.5 Continuing attempts to buy respectability

The tobacco industry previously attempted to buy some measure of public respectability in New Zealand through its public donations and sponsorship activities. Since sponsorship was banned it has explored other avenues. For example, in 1999 a resource kit for Forms 1 to 3, entitled “I’ve Got the Power” began to be trialed in New Zealand schools. The kit was organised by an Australian educational consultant employed by Philip Morris. The programme claimed to be “designed to develop decision-making skills” and to help “students learn about aspects of health that are community priorities, for example...tobacco”. Despite this, it contained absolutely no information about smoking and health. Indeed, the words “tobacco” or “smoking” appear only twice throughout (Chapman 1999). Chapman also noted:

“By investing in so-called educational campaigns, Philip Morris will be able to legitimise its interest in researching teenagers about smoking. Its vice

president in the United States, Ellen Merlo, was reported recently in the American advertising industry newspaper *Adweek* as saying ‘We are doing a lot of research and study on youth smoking prevention to identify the right message and the right programs.’ ” “... the Minnesota documents and commonsense show the industry to be nothing less than corporate pied pipers.”

A New Zealand Smokefree Coalition spokesperson also commented that:

“ a decision-making approach of ‘I’ve got the Power’ without warning kids that the product will hook them into powerlessness through addiction to nicotine, is hypocrisy at its worst” “Philip Morris is using schools as pawns in their game which is to sell cigarettes. They will be doing it in the hope of more political leverage...” (Langford cited in Laugesen 1999i).

International experience suggests that such links between the industry and educational institutions, such as universities, may help provide the tobacco industry with its research needs and provide legitimacy and influence (Sweda and Daynard 1996; Arno et al 1996). This legitimacy can allow the industry to call on support from these sectors when it needs it (eg, when in court). Associations with the education and science sectors are particularly valued by the industry (Barnes and Bero 1996; Cohen 1996a; Mayor 1997). Furthermore, this relationship can lead to “institutional addiction” to tobacco funding for various organisations (Cohen et al 1999).

6.6 Possible industry influence with the media to oppose tobacco control

As detailed in Chapters 2-4, the tobacco industry in New Zealand has not used the media to warn the public and smokers about the health risks of smoking, the addictiveness of nicotine or about the risks of second-hand smoke. Instead, it has used the media to falsely reassure the public about these risks not being proven or not being significant.

Its media communications have also attempted to reframe issues so that smoking is “an adult choice” and that tobacco advertising is an issue of the “right to free speech”.

There may be other influences on the media and the way it deals with smoking-related issues. For example, in a 1990 article, an investigative journalist examined the possible effects of the links between the Newspaper Publishers Association (NPA) and the tobacco industry. He noted that “there is some suspicion that Thompson has the ear of editors from his NPA days” (McLauchlan 1990, p46). (Thompson was formerly the Executive Director of the NPA, prior to becoming Director of TINZ).

McLauchlan also cited the example of a memo that apparently went up on the reporters’ noticeboard at the *New Zealand Herald*. The memo was reported as saying that no further stories quoting ASH were to be published without the editor’s permission. Another example given was about a comprehensive article on the tobacco

sponsorship issue by a *Listener* journalist that was never published. In response to the issue of his influence over editors, Thompson was reported as saying:

“I get very angry when it’s suggested the media have handled this with a commercial bias because they don’t want to offend advertisers. I would say there is a very strong case to say the weight of anti-smoking editorial is against the industry.” (McLauchlan 1990, p46)

In 1988, the tobacco advertising revenues for 10 of the major New Zealand newspapers and magazines totalled \$2.7 million. Of this, the *New Zealand Herald* got \$976 000, and the *New Zealand Listener* received \$402 000 (TSB 1989, p52).

While there is no direct evidence that these economic links made the media more favourable to the tobacco industry, there is little doubt that some editorialists and other media figures were opposed to tobacco control in the late 1980s and early 1990s. For example, Michael Horton (of *New Zealand Herald* publishers Wilson and Horton) was reported in April 1990 as opposing the proposed advertising ban, arguing on the grounds that if a product was legal to sell, it was legal to advertise (*Evening Post* 1990). At the same forum, Michael Robson (Managing Director of Independent Newspapers Ltd) said:

“ ... we are seeing a product that is legal to sell totally banned from the advertising arena. It is the first step on the road to censorship and, in the interests of social engineering, New Zealanders are giving up an important freedom”.

These commentators ignored the many products that are “legal” but for which there are many restrictions on advertising (eg, alcohol, guns, pornography and various pharmaceuticals). Further examples of media opposition to tobacco control measures include a *Dominion* editorial in early April 1990, when Helen Clark criticised the Benson and Hedges fashion awards taking place in Wellington:

“Health Minister Helen Clark is being a pedant when she rails against the Benson and Hedges fashion awards ... The awards were a glittering occasion, enjoyed ... by a massive (TV) audience. Ms Clark’s attack will have left a sour taste. ... the Government has chosen a devious and politically inept approach to the problem. It is devious because in trying to get at tobacco companies, the Government has chosen to penalise sports and fashion enthusiasts. It is inept because big events like the fashion show, cricket matches and motor racing are hugely popular” (*Dominion* 1990).

Deeks has noted that *New Zealand Herald* editorials were consistently against the proposed smokefree legislation, arguing that “matters of personal health do not need legislative enforcement” and that the proposed legislation was “both draconian in conception and spineless in form” (*New Zealand Herald* 21 May 1990, cited in Deeks 1992). None of these views by editorialists and publishers were accompanied by declarations to readers that the print media potentially had “competing interests” when making comments on the issue of tobacco promotion and advertising.

To more effectively oppose smokefree environments legislation, the tobacco industry built liaisons with other media-related industries in New Zealand. Deeks (1992) describes how tobacco industry representatives meet with various associations in a “Joint Industries Committee” formed to fight the government’s proposed ban on the advertising of tobacco products. These included the Magazine Publishers' Association of New Zealand, the Association of New Zealand Advertisers, and the Association of Accredited Advertising Agencies of New Zealand.

In 1990 the Auckland journalists' club, The Fourth Estate, accepted \$30 000 from Rothmans (*Sunday Star* 1990). A club official, Warren Hastings, was reported as saying that:

“... the money has no strings attached, and does not leave the press industry open to criticism about its ability to remain unbiased on smoking issues”.

Tobacco control advocates in the late 1980s certainly considered much of the media and its allies to be a barrier to advancing tobacco control. Helen Glasgow, who worked for the Cancer Society at that time, remembered the attitude of some of the media:

“We talked to (print, TV, radio) sports journalists, who on the whole were pretty hostile to our efforts, and very supportive of the tobacco industry, probably because there were benefits to them (from the tobacco sponsorship of sport). They had had a long association working with the tobacco people.”
 ...“The proposed end to sports sponsorship and print advertising involved big, big dollars. Sports were getting big dollars from the industry, the newspapers were propping up their advertising with print ads from the tobacco industry, the magazines were getting good amounts of print ads, and television were getting dollars to support programmes, so we’re talking about plain self-interest and money” (Interview 1996).

The international tobacco industry and the ownership of New Zealand media

“... we plan to build similar relationships to those we now have with Murdoch’s News Limited, with other newspaper proprietors. Murdoch’s newspapers rarely publish anti-smoking articles these days”

Appendix to memo by Hamish Maxwell (a former Philip Morris CEO)

(Industry document 1985, p6).

It is possible that the coverage of tobacco issues in New Zealand could be affected by the control of some of the local and international media. Rupert Murdoch, who controls the INL media group of New Zealand, has been on the Philip Morris

Board since 1989 (Brooke 1998). Internal Philip Morris documents show a little of the industry's view on the media at the international level:

“A number of media proprietors that I have spoken to are sympathetic to our position. Rupert Murdoch and Malcolm Forbes are two good examples. The media like the money they make from our advertisements and they are an ally that we can and should exploit.” (“The Perspective of PM International on Smoking and Health Issues: Text of the discussion document used at the meeting of top management.” 29 March 1985, by Hamish Maxwell (a former Philip Morris CEO). Bates numbers 2023268329-49. Cited in Chapman and Davis 1998).

In particular, the appendix of the memorandum by Maxwell above has a statement by another executive:

“... we plan to build similar relationships to those we now have with Murdoch's News Limited, with other newspaper proprietors. Murdoch's newspapers rarely publish anti-smoking articles these days” (Industry document 1985, p6).

Indeed, one observer noted that for some years the only two articles on smoking and health that could be found in the Rupert Murdoch owned *New York Post* were on how smoking might be good for you (Borio 2000).

It has been suggested that Murdoch and Philip Morris have similar and complementary needs to penetrate third world markets such as China, and that there are also advertising and sports sponsorship crossovers:

“What's the impact of this cross-marketing? An executive in charge of developing the Chinese market for Marlboro once told me that the company's aim is simple: ‘Get the smoker to associate the first cigarette of the day with freedom, sports, or sex. The second cigarette is just habit.’ ” (Klein 1998)

In the United States setting, Kessler documents industry links with various newspaper publisher associations (Kessler 2001, pp210-211) and even a plan by Philip Morris for major media acquisitions: “If we are to truly influence the public policy agenda and the information flow to the populace, we must be the media”.

6.7 Opposition to the compensation of those harmed by tobacco use

“I remain concerned that Collins and the potential plaintiffs are capturing the media ground on this issue and are managing to make the prospect of possibly taking some action sound like they are actually taking some action and are winning the battle. Occasionally, I have a nightmare that somehow, from

somewhere Collins will come up with a million dollars to bankroll a serious challenge.”

Jim Burns (Corporate Affairs Manager of Wills (NZ)), (Burns 1995).

We could find no evidence that the tobacco industry had attempted to compensate those harmed by tobacco use in New Zealand. Indeed, the available evidence has indicated the opposite. The industry has denied responsibility and actively planned to avoid paying such compensation. While there has been no litigation against the industry in New Zealand, the industry has repeatedly said that they would resist any such legal action.

BAT and its New Zealand branch Wills (NZ) were concerned about litigation against them from 1987 or before. In the industry internal documents, the following items were identified. Collectively, they indicate that rather than a concern for those who have been harmed by smoking, there was a concern to minimise any industry responsibility:

- A review of the possible legal liability of the New Zealand industry by Simpson Grierson Butler White, a New Zealand law firm (Simpson et al 1987).
- Evidence of a visit by Glenn Eggleton (BAT USA) to New Zealand in 1992, and plans by David Schechter of BAT USA to also visit (Schechter 1992a). These visits were to help BAT and Wills (NZ) plan for possible litigation. These intended visits predate a newspaper cutting in the BAT files from October 1992, about plans by ASH (NZ) to launch legal action against tobacco companies (*Sunday News* 1992). With the cutting is an agreement for a \$NZ 329 000 budget for BAT US, Philip Morris and Rothmans to prepare for New Zealand litigation (Schechter 1992b). This budget followed a comment a few weeks before that a planned \$NZ 255 000 budget was “surprisingly low” (Schechter 1992c).
- The transcript of a February 1995 Kim Hill radio interview about a New Orleans class action case against a tobacco company (RNZ 1995).
- Transcripts of Radio NZ and TV1 interviews in March 1995 about ASH moves to gather claimants for a class action in New Zealand (RNZ/TV1 1995).
- A Wills (NZ) memo to the legal department of BAT (UK) with a transcript of a TV2 “60 Minutes” programme of June 1995 about possible litigation (Burns 1995b). A copy was sent to Russell Feist of the Wellington law firm Tripe Matthews and Feist.
- A Wills (NZ) memo to Wellington-based lawyers and the legal department of BAT (UK). It included a transcript of a Radio Pacific interview of August 1995 relating to the lawyer Dr David Collins who had become involved with ASH’s legal plans. The memo read:

“I remain concerned that Collins and the potential plaintiffs are capturing the media ground on this issue and are managing to make the prospect of possibly taking some action sound like they are actually taking some action and are winning the battle. Occasionally, I have a nightmare that somehow, from somewhere Collins will come up with a million dollars to bankroll a serious challenge.” (Burns 1995c).

When the Prime Minister in March 2000 said that Government was considering legal action against the tobacco industry, the reaction was negative. Phil Tunstall of BAT (NZ) was reported as saying that:

“...his company was confident it would successfully defend any action... We are a responsible company operating within the laws of New Zealand and we will continue to cooperate with the government and government agencies to address the important issues relating to smoking in New Zealand” (*NZ Herald* 2000a).

Summary

The available evidence suggests that the tobacco industry in New Zealand has opposed all substantive measures to help reduce tobacco consumption, to prevent the uptake of smoking by youth, and to protect the population from second-hand smoke. In particular, they have opposed restrictions on tobacco promotion (advertising and sponsorship) and smokefree environment regulations. They have also opposed the organisations involved in tobacco control and the compensation of those harmed by tobacco use. This irresponsible pattern of behaviour is highly consistent with that of the parent companies overseas and of other international tobacco companies.

7 Discussion

“We are a responsible company operating within the laws of New Zealand...”
(Phil Tunstall of BAT (NZ) reported in *NZ Herald* 2000a).

We have based this work on the idea that all sections of the community, including businesses, need to keep to minimum standards of responsibility. In Chapter 1 we suggested some minimum standards for a business producing a hazardous product. As we have argued above, it appears that the tobacco industry in New Zealand has consistently behaved in a highly irresponsible manner over the last four decades. As detailed in the previous sections, there is evidence that indicates that the tobacco industry in New Zealand has:

- neglected to fully inform smokers and the public of the harm and potential harm from tobacco use that they are exposed to. (Rather, the industry has obstructed efforts to inform their customers and the public of the risks to health and of addiction from smoking);
- done little to minimise the harmful aspects of tobacco use through product modification. (Rather, design changes appear to have occurred largely for marketing reasons);
- failed to stop the promotion of tobacco. (Rather, the industry has worked unceasingly to evade or bypass restrictions on promotion, has introduced new brands, and has attempted to increase sales);
- failed to actively work with smokers, government and others to minimise the harm already caused, and to compensate as fully as possible individuals, families and communities for the harm caused. (Rather they have denied responsibility for the consequences of their actions and resisted all efforts to make them compensate those harmed);

How does the framework we have used sit with other similar frameworks used to evaluate public or business activities? The classical principles for the practice of medicine are: independence for the individual, doing good, justice, and doing no harm. The production and sale of tobacco fails completely by these standards. Furthermore, these principles suggest that health professionals have an obligation to oppose the tobacco industry (Bolander 1997).

Others suggest that activity such as the planned entrapment of children into tobacco use puts tobacco companies into the first (worst) of four progressive stages of ethical development for businesses (Arnold and Lampe 1999). In this stage, companies “lack any intent or desire to encourage ethical decision making”.

It has been noted elsewhere that the tobacco industry’s business practices contravene widely accepted principles. For example, the industry’s tactics are at odds with Shue’s criteria for classifying harms that may not be imposed without the consent of those who will be adversely affected by them (as described by Yach and Bettcher 2000). The criteria include harm that is: “serious”, “irreversible”, “very likely to occur”; and

may “lead to bodily damage”. These harms clearly apply to tobacco use where smokers who are not properly warned of all the serious risks of smoking. They also may apply to those exposed to second-hand smoke. Others have concluded “there can no longer be any doubt that this is a dishonest and unethical industry, whether by rational design or otherwise” (Cohen et al 1999).

Comparisons with other industries

The denial of significant risk and deliberate deception by whole industries is not unusual. For example, the book *Global Spin* describes how corporations responsible for producing pollutants employ public relations firms, run mass advertising campaigns, artificially create “grassroots support” for corporate causes, deter public involvement, use industry-funded research, and get corporate-based “educational” materials into schools (Beder 1998). Similarly, many fossil fuel companies have worked to deny the impact of fossil fuel burning on global climate change, have run misleading advertising campaigns, and have actively interfered with international efforts by governments to control this serious global problem (Leggett 2001). The food industry also provides multiple examples of conducting misleading advertising, as described by the former director of the Food and Drug Administration in the United States (Kessler 2001) and others (eg, Mayer et al 1998). In particular, the breast milk substitutes industry has a long history of irresponsible marketing practices (Sjolin 1981; Yamey 2000). One of the worst industries however, has been the asbestos industry:

“This industry, in concert with many of its insurers, systematically developed and then suppressed information on the carcinogenicity of asbestos. The development of warnings for those exposed to the asbestos was delayed. As a result, millions of workers were exposed to the carcinogen and hundreds of thousands died.” (Lilienfeld 1991)

In New Zealand there have been other industries that have misled the public by using front groups and deceptive public relations strategies. They have included a State-owned timber company (Hager and Burton 1999). The very slow process of removing lead from New Zealand petrol (Menkes and Horrocks 1994) is also partly attributable to industry delay tactics in the face of evidence of harm to health that was first suggested as far back as 1959 (Needleman 2000).

However, we could find no other industry operating in New Zealand where the impact of business activities on life and health were as great as that from the tobacco industry. The consistent denial and deception appears to have contributed to thousands of early deaths and for hundreds of thousands, sickness for a significant part of their lives. Furthermore, the tobacco industry’s promotion of an addictive product (which undermines individual autonomy) to both youth and adults makes its behaviour particularly irresponsible. In addition, its products harm both non-consumers as well as consumers (ie, infants, children and adults exposed to second-hand smoke).

Responsibility and the New Zealand law

Is the level of the deception by the tobacco industry in New Zealand illegal? Consumer protection legislation gives some indication of the societal values relating to business practices that could be considered irresponsible. In New Zealand the Fair Trading Act 1986 represents the law that is most relevant to consumer protection and states:

“Misleading conduct in relation to goods ... No person shall, in trade, engage in conduct that is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability for a purpose, or quantity of goods” (Fair Trading Act 1986).

The Commerce Commission has suggested that there is a fairly high standard to be met by businesses under the Act:

- “The courts have said the Act is there to protect everyone, including those who may be gullible, of less than average intelligence or poorly educated.”
- “in most cases it is not relevant whether a trader intended to deceive or mislead, rather the issue is whether their actions did or could deceive or mislead;
- it does not need someone to suffer or be directly affected by the trader’s behaviour for action to be taken, as the Act applies not only to conduct which has actually misled or deceived somebody, but also to conduct likely to mislead or deceive.” (Commerce Commission 1997)

The relevance of this legislation to the behaviour of the tobacco industry has yet to be tested in New Zealand courts (eg, on the issue of the industry misleading the public as to the hazardous “nature” of its products to human health). Nevertheless, an industry internal document has indicated preparations on the product liability issue by Simpson Grierson Butler White, a New Zealand law firm (Simpson et al 1987). This document suggested some risk to the industry under the New Zealand legal system: “Cigarette companies may face some exposure under the Fair Trading Act 1986, for engaging in ‘misleading or deceptive’ advertising.”

There may also be some doubt about the present legality of the *production and sale* of tobacco. Section 156 of the Crimes Act 1961 states that anyone who controls anything:

“which, in the absence of precaution or care, may endanger human life is under a legal duty to take reasonable precautions against and to use reasonable care to avoid such danger...”.

If at some future point those who make and sell tobacco were convicted under this section, then a radical rethink of the sale *for profit* of hazardous and addictive products would be required. Part of that rethinking could be to make the sale of tobacco an extremely tightly regulated activity.

8 The Endgame – Controlling an Irresponsible Industry

The tobacco industry in New Zealand appears to have used a wide range of irresponsible means to maintain its own profits. These activities have been at the expense of the health and lives of its customers and the health of those exposed to second-hand smoke. The rationale for the activities has been the profit from hundreds of thousands of nicotine-dependent smokers. Given this situation, we argue that the New Zealand Government is obliged to take very substantial regulatory and other measures to constrain this industry.

What should be done? Intensive tobacco control is needed to protect public health with the long-term end point being only a very minimal level of tobacco use in society. We suggest that the specific long-term targets for the New Zealand Government should be to enable more than 99% of adults, youth and pregnant women, both Maori and non-Maori, to be smokefree. There should also be a goal of virtually zero exposure of non-smokers to any measurable level of second-hand smoke. This does *not* require the prohibition of smoking but rather involves the tight regulatory control of a hazardous and addictive product.

We do not think that a zero use of tobacco in New Zealand society is practicable within the near future. Also, we consider that the *consumption* of tobacco should remain legal (albeit by very well informed consumers in settings where others are not put at risk). The worldwide experience of prohibited recreational drugs suggests the impracticality and possible net adverse effects of outright bans for many of these drugs. Furthermore, the tobacco industry would use the “prohibition” issue as a propaganda tool to delay Government efforts to reach the desired end point.

Substantially intensifying the control of the tobacco industry in New Zealand has large political and administrative obstacles. The industry has shown a great ability to use legal resources to delay regulations and to draw on international resources from parent companies (Thomson and Wilson 2000). Nevertheless, there are some precedents for the successful control of the industry in New Zealand. In particular, the Smoke-free Environments Act (1990) was a groundbreaking piece of tobacco control legislation in international terms. Other successful public health regulatory initiatives in New Zealand include:

- the tightening of regulatory controls on pharmaceuticals which were found to have significant risks (eg, barbiturates and benzodiazepines) while still being legal to prescribe;
- the phasing out of leaded petrol (despite oil industry opposition);
- maintaining a selective tax on alcohol to address the significant externalities of its use on health and welfare (again despite some alcohol industry opposition);
- the tightening of regulatory controls on the way asbestos is handled.

The options

Below we detail some of the ways in which the suggested targets could be reached. We emphasise that *all* substantive and effective means should be used, and that the tactics below are best used together in a truly comprehensive approach. We consider that regulation, taxation, health promotion and legal action are all required. The ability of the industry to counter tobacco control activity (eg, by actions such as cigarette engineering techniques to enhance the absorption of nicotine) requires the widest possible range of activity.

Any major new constraints on the industry would need to be planned in the light of the huge power and ruthlessness of the international owners of the tobacco companies in New Zealand. A successful example in one country of more effective regulation would threaten international profits that are larger than the New Zealand Government budget (see Appendix D for just the main companies involved in New Zealand). As preparatory work for the constraints that may affect the tobacco industry's profitability, we consider that considerable progress on reducing the industry's legitimacy within the New Zealand community is needed. That progress may be helped by increased Government access to tobacco industry information.

Reducing the tobacco industry's legitimacy

The ability of the tobacco industry to resist tobacco control activities and to discourage governments from action depends partly on the extent to which they are seen as a legitimate business. The exposure of their irresponsible activities helps reduce that perception of legitimacy. It also helps smokers and others to see smoking not as a matter of individual choice and blame, but as a consequence of industry behaviour in the way it markets a hazardous and addictive product.

The information from internal tobacco industry documents could be used by Government and health authorities to heighten the awareness of the industry's irresponsible activities. In particular, the general public and smokers especially could be better informed about the extent to which the tobacco industry has denied them accurate information on the products that it sells. This would reduce the credibility of the industry and increase the openness of the public to information on the hazards of smoking and second-hand smoke.

Information on industry conduct would also allow for a more sceptical public and media evaluation of some frequently aired notions and dogmas about smoking. These dogmas may not necessarily be seen by the public as having been actively promoted and disseminated by the industry. Examples of such ideas include the association of the value of freedom of choice with smoking, or the view that there is widely held scientific doubt about the risks from second-hand smoke. If such ideas were known to be pushed by a self-interested industry, they could be assessed more critically.

In particular, there is a case for mass media campaigns that directly criticise the tobacco industry's tactics and its manipulation of information. Such campaigns have been effective in several States in the United States (Sly et al 2001; DeJong and

Hoffman 2000; Zucker et al 2000; Balbach and Glantz 1998; Goldman and Glantz 1998).

Increasing Government access to tobacco industry information

Government may need to establish a specific and pro-active overview capacity for the industry, such as is in place for monitoring the investment and gambling industries in New Zealand. Such a capacity is needed in this case where the public is demonstrably at risk due to the habitually irresponsible activities of an industry. This is especially so when the activity leads to the sickness and premature death of a significant proportion of the population.

One option for establishing this overview capacity would be to amend the Smoke-free Environments Act in order to enable Government to be pro-active in its surveillance of the tobacco industry. Greater surveillance would be possible if Government had similar powers over the tobacco industry to those that the Commerce Commission has over business acquisitions (under the Commerce Act 1986 ss. 98-100). Such statutory capability for disclosure from the tobacco industry would enable New Zealand to more effectively counter the industry efforts described above. The capability would be in line with a current private member's Bill in the British Parliament (House of Commons 2001).

The New Zealand Government and the public could better deal with tobacco industry behaviour if the nature and detail of the industry activities were more transparent. Those smoking, those likely to start smoking, and those likely to be exposed to second-hand smoke, would all benefit from greater information on the nature of tobacco products and on the public relations and marketing activities of the tobacco industry.

At present much of the best information that the Government and the public has on the manufacturing and marketing activities of the tobacco industry in New Zealand comes from internal industry documents from 1995 or before. These documents are public largely due to court orders in the United States. To ensure that there is an on-going supply of such information, Government needs to have sufficient powers to access all relevant material.

Enacting much tighter regulations on tobacco and the tobacco industry

There is an urgent need for regulatory steps that would further limit the capacity of the tobacco industry to harm public health. Further legislation could cover:

Smokefree places regulation: There is strong international evidence for the effectiveness of this approach in helping smokers quit and in reducing tobacco consumption (Chapman et al 1999; Serra et al 2001). Legislation could ban smoking in all indoor environments to which the public has access or where there are employees. Smokefree places both reduce the exposure to second-hand smoke and

reduce the normality of smoking. The latter is an essential part of helping those trying to quit smoking and of minimising the likelihood of young people taking up smoking.

Improved warnings: Requiring the industry to use state-of-the-art health warnings on all cigarette packets (eg, graphic pictures as used in Canada) should be considered. The current warnings should also be expanded to include other important health risks, such as smoking being the major preventable cause of blindness in New Zealand (Wilson et al 2001).

Constituent controls: The aim of such controls would be to create a less attractive, less dangerous nicotine-containing product. These controls could include the removal of additives such as sweeteners and combustion accelerants. Regulations could require substantially lower levels of nicotine and tar in all tobacco (to minimise the health damage to users and the addictiveness to young people who are experimenting with tobacco). A starting point could be for cigarettes sold in New Zealand to have the same restrictions as those required by the European Union. Consideration could be given to regular reductions in both tar and nicotine. Reduction of nicotine levels is, however, a difficult area. The factors include the ability of the industry to modify nicotine availability from tobacco in various ways and the question of compensatory smoking (extra inhalation to achieve certain nicotine levels in the brain). The experience of other jurisdictions in the tobacco constituent monitoring area (eg, British Columbia) would need to be carefully examined.

Retail controls: This could include limiting tobacco sales to licensed retail outlets. Such outlets could ensure that in the long-term tobacco could be brought more into line with other potentially addictive substances such as benzodiazepines. Such an approach has been canvassed in various forms in the New Zealand setting (eg, Small 2001) and within Kessler's recommendations for the need for intense regulation of tobacco in the United States (Kessler 2000, p392).

Grower controls: Although tobacco is no longer grown as a commercial crop in New Zealand, it is essential to ensure that were commercial (or private) crops grown, that they would be very tightly regulated. In particular, it is desirable to make the crop unprofitable to grow for sale, so as to reduce the risk of any illegal sales. Such sales are more likely in the context of higher taxes.

Structural aspects of achieving better tobacco control

Structural changes to the way that Government tobacco control is carried out may also be necessary if the suggested targets detailed above are to be reached. Such changes could achieve a more effective focus, more appropriate and secure long-term funding, and a stronger stance on tobacco control. Establishing a special purpose agency may be one way to achieve these aims (Thomson 2001b; Britton and McNeill 2001). Such an agency could be similar to that suggested for Ireland, where proposed legislation would establish a Tobacco Control Agency to be the lead agency in tobacco control for that country (Parliament of Ireland 2001).

The ability of Pharmac (the New Zealand Government agency for purchasing pharmaceuticals) to deal with very large international companies is a worthwhile example to consider. Pharmac has been successful in moving the balance of control between Government and the international pharmaceutical industry (Braae et al 1999). There are similar issues with the control of the pharmaceutical industry as there are in tobacco control. These issues include the ability of Government to control an industry and to manage public health, social and economic risks in an area of intense public concern (Davis 1993).

Using higher taxes to both constrain the industry and lower demand

A further way to rapidly constrain the size and adverse impact of the tobacco industry on public health is through progressive major hikes in tobacco taxation levels. This strategy has the advantage of not requiring any cooperation from the industry and of being fairly immune from industry-funded legal action. There is New Zealand evidence that higher tobacco prices also lead to fairly rapid reductions in consumer demand (MoH 2001).

As New Zealand is an isolated country in which little or no tobacco is currently grown, it has considerable advantages in the control of any smuggling that may result from higher tobacco taxes. New Zealand already has a highly experienced customs regime to control the import of tobacco and other drugs. The resources needed to control illegal drug imports have consistently been far more than those needed to control tobacco imports.

Tobacco taxation has the potential to harm low-income smokers and their families (Thomson et al 2000). To reduce this potential, the tax increases should be accompanied by the following:

- Intensive mass media campaigns promoting quitting and providing more information on the risks of smoking. These campaigns should include the promotion of the free Quitline service. The tactics could include “Quit and win contests” in which prizes are given to those who have quit smoking (these have been proven cost-effective in many countries and are known to appeal to low-income smokers (Wilson 1998)).
- Fully subsidised access to all proven smoking cessation treatments (ie, nicotine replacement therapy (NRT), bupropion and counselling by a health professional). While counselling via the current Quitline service is free, there are still part-charges on subsidised NRT.
- Using tobacco taxation revenue to ensure that the above programmes are adequately funded.

Legal action against the tobacco industry

The experience in some countries (especially the United States and Australia) indicates that individuals or classes of individuals who have been harmed can take successful legal action against the tobacco industry. It can also be taken by the state or local government on the basis of cost recovery for the health and social costs.

Litigation can also be used to stop the industry from supplying erroneous or faulty information. An example of the latter is the 1991 Australian case against the tobacco industry that denied the risks of second-hand smoke (Federal Court of Australia 1991).

The potential advantages of litigation include:

- “effectively communicating the dangers of tobacco use through media attention to the plight of individual victims, rather than abstract statistics;
- forcing manufacturers to raise prices to cover liability costs, thereby discouraging product use;
- delegitimising the tobacco industry by publicising whistleblowers’ testimony and their internal incriminating documents, thereby reducing their political power;
- compensating individuals, families, and third party payers for their tobacco caused losses;
- obtaining judicial orders requiring defendants to change their practices; and
- forcing manufacturers, retailers, employers, etc, in a non-legislative way to change their practices so as to minimise future compensatory and punitive damages.” (Daynard 2000)

Daynard notes that the first goal of “communicating dangers”, is even advanced by well-publicised losses in court. Other work by Daynard and others documents some of the issues involved with litigation as a tobacco control strategy (Daynard 1988; Bloch et al 1998; Daynard et al 2000).

In the New Zealand setting it is not clear if legal actions would be successful under existing statutes (Tokeley 1992, Tokeley 1997). A major argument against legal action to get compensation is the likely lack of efficiency in facilitating a rapid reduction in demand for tobacco. The outcomes are unsure, and courts may have less effective remedies available to them compared to the legislative and executive arms of government. This lack of efficiency is relative to tobacco taxes or instituting other regulatory tobacco control measures (see for example Jacobson and Warner 1999).

Nevertheless, legal action in New Zealand could potentially use the Fair Trading Act 1986. This legislation could be used to ensure that the industry does not continue to mislead and deceive the public about its products and the way it conducts its trade.

Yet even if litigation is not pursued in New Zealand at this point, there is still a case for the continued systematic collection of information about the industry, to allow more accurate and effective use of the health sector’s legal resources. At present Government has a very limited knowledge of both the strategic planning or the likely use of tactics by the industry. The following steps could therefore be considered by Government: (i) requiring that all tobacco company internal communications must not be destroyed and must be accessible to the New Zealand Government; and (ii) strengthening consumer protection legislation in general, so that legal action against industries that harm public health is more viable.

Forming policies on the relationship between Government and the industry

Given the irresponsible nature of the tobacco industry in New Zealand and their wish for “respectability by association”, it is justifiable and necessary for the Government to have a range of policies on official associations with the industry. Such policies “could cover issues such as investment ties, the shared employment of people with the industry, and the public auditing of any research proposal involving tobacco industry funds” (Thomson 1998). Other specific areas for consideration might include banning political donations from the tobacco industry to politicians or political parties, and regulating the associations between educational institutions and the tobacco industry.

Summary

We argue that given the extensive harm to New Zealanders from tobacco use, and the chronically irresponsible behaviour of the tobacco industry, there is a need for the New Zealand Government to intensely regulate this particular industry. We suggest that the desired end points are a smoking prevalence and exposure to second-hand smoke as near as possible to zero. A wide range of tobacco control interventions should be used to achieve these end points.

We consider that essential elements of a more effective tobacco control programme would include regular tobacco taxation increases and a much tighter regulatory environment. In particular, there is a need to severely constrain the way tobacco is sold and a need to control the composition of cigarettes. Publicising irresponsible tobacco industry activities and facilitating legal action against the industry appear to be valuable aspects that could be introduced to New Zealand Government tobacco control activities.

An effective long-term programme for a virtually smokefree New Zealand would need to be carefully planned. It may need to be conducted by a focused, independent agency with secure funding. Without such measures the irresponsible behaviour of the tobacco industry in New Zealand will continue to impose a major burden on the health and welfare of its customers and on the public of New Zealand.

Appendix A: Methodology of this report

Assumptions

This report generally assumes that:

- The tobacco industry both in New Zealand and elsewhere is sufficiently discrete from other areas of business activity for the meaningful analysis of its activities as a separate industry.
- That although there are linkages between business and Government in New Zealand and elsewhere, it is possible to examine business activities separately from government activities.

As detailed in the body of this report, these assumptions are to some extent challenged at the international level due to the close links that the tobacco industry has with other businesses (retailing, law, public relations). This also applies for the links between industry and government in developed countries such as the United Kingdom (eg, Barnett 2000) and in New Zealand (eg, Hager and Burton 1999).

Definitions and scope

Unless otherwise stated, the term “industry” is used in this document to cover the core tobacco-related business in New Zealand which is the importing and manufacturing of cigarettes and the (former) Tobacco Institute of New Zealand (TINZ). This definition encompasses the current companies of British American Tobacco (NZ) Ltd, Imperial Tobacco (NZ) Ltd and Philip Morris (NZ) Ltd and the companies that preceded them (Wills, Rothmans, and RJ Reynolds). For earlier periods it also encompasses the tobacco-growing sector in New Zealand (which no longer exists). The peripheral components of the tobacco industry including public relations, marketing, advertising (through overseas media) distribution and retailing are generally identified separately.

Sources

This document has been informed by the authors’ work in tobacco control and particularly research on tobacco control history and policy in New Zealand (Thomson and Wilson 1999; Thomson and Wilson 1997; Thomson and Wilson 2000; Thomson and Wilson 2001). This work was based on examinations of published literature, interviews with key informants, examination of internal Government documents obtained under the Official Information Act 1982, and examination of Parliamentary Debates (Hansard) and the Appendices of the House of Representatives (AJHR). Other key documents on the history of tobacco control in New Zealand were also considered (Beaglehole 1991; Carr-Gregg 1993; Smith 1993). More specific searches were as follows:

Medline: Medline searches for the years 1966 to June 2001 were conducted, using combinations of the search words: “Zealand and tobacco and industry”, “Zealand and passive smoking”, “Australia and tobacco and industry”, “Guildford”.

Internet searches: These covered internal industry documents in the following table. Searches focused on were limited by available time and tended to include the names of individuals in the Medline searches and specific terms such as “Mayfly”.

Warning on references: In using the references given in this study to access documents from websites, please note that if there are any problems, the solutions may be to use the Tobacco Documents Online search page <http://my.tobaccodocuments.org/> and enter the Bates number given (this is often the last 10 digit number in the web address for a document).

Table 1: Internet search sites used (For most see: Tobaccoarchives.com – master website at: <http://www.tobaccoarchives.com/> or www.tobaccodocuments.com)

Database name	Internet Address	Number of items found when searching for “Zealand”
Philip Morris Incorporated Document Site	http://www.pmdocs.com/	1831
R.J. Reynolds Tobacco Company Online Litigation Document Archive	http://www.rjrtdocs.com/	252
Brown & Williamson document Website	http://www.bw.aalatg.com/	69
Lorillard Tobacco Company Document Site	http://www.lorillarddocs.com/	96
Tobacco Institute Document Site	http://www.tobaccoinstitute.com/	91
The Council For Tobacco Research – USA, Inc Document Site	http://www.ctr-usa.org/ctr/	19 (Title field)
Other sites – not included in tobaccoarchives.com		
Guildford (British American Tobacco Headquarters)	http://www.cctc.ca/ncth/guildford/	100
The Cigarette Papers (Brown & Williamson Collection)	http://www.library.ucsf.edu/tobacco	1
WNTB Forum on Tobacco industry documents (including some Guildford documents)	http://www.tobaccopapers.org	No search engine

Note: The “Tobaccoresolution.com” site covers many of the sites in this table along with corporate sites for the relevant companies.

Other documents:

Besides the internal tobacco industry documents that are available on websites and in government and university archives in the United States, there is one major source of industry documents outside the United States. A United States tobacco firm, Brown and Williamson, is controlled by British American Tobacco. An agreement with the United States courts was made for some BAT documents to be available in Britain. These are the Guildford depository documents.

These documents are controlled by BAT rather than a government or independent archive. Only limited and far-from-ideal space and resources are available for researchers. When documents are selected by researchers from a document index, boxes of documents are produced for examination. However, only some documents can be copied, and the process is complicated and long.

ASH (NZ) commissioned Steve Woodward and his associates in Britain to search the Guildford documents for material relevant to New Zealand. They found approximately 15 000 pages of documents by a search for documents that mentioned "New Zealand". A brief description of files was recorded. ASH (NZ) then selected material to be copied from that description. Mr Woodward describes the process of getting copies:

"BAT's lawyers in London make three sets of the requested documents: one goes to their lawyers in London, one to their lawyers in the US and one to their lawyers in the country relating to the documents, in this case NZ. When all lawyers have cleared the documents they release them. Anything the lawyers deemed to be privileged will be withheld."

After the "legally privileged" material had been denied, four folders of document copies (about 1000 pages) were produced and sent to ASH (NZ). In the time available these have been examined, and about 200 pages extracted as having the most immediate potential for showing the tobacco industry stance and methods.

BAT document references: The most important part of the reference is the "Bates Number" which is stamped on each document. This is a number series for all material produced by the State of Minnesota Court process.

Other Internet searches:

- "Index New Zealand" was searched for the period January 1987 to 1996 (as part of earlier work on the history of tobacco control in New Zealand).
- The online version of the journal *Tobacco Control* was searched using the terms "Zealand" and "Industry".
- The archives of the two online newspaper websites in New Zealand were searched (*New Zealand Herald*, and *Stuff* (INL papers)) using the search terms "tobacco" and "smoking". For other newspapers "e-City" (via the Wellington City Library website) and "Newsroom" archives (www.newsroom.co.nz) were searched.
- The search engine "Search New Zealand" (eg, at www.actrix.gen.nz) was used to identify other New Zealand websites (search term: "Tobacco Institute").

- All the electronic versions of the *New Zealand Smokefree e-News* from 1997 to June 2001 were collated and searched. Search terms included: “Industry”, “Tobacco Institute”, and the names of specific tobacco companies.

Key texts: The following texts on the tobacco industry were examined: Kluger 1996; Glantz and Balbach 2000; Heyes 1999, Kessler 2001.

Discussions with key informants: One of the authors (George Thomson) interviewed a number of officials in government agencies and key tobacco control workers in the health sector between 1996 and 2000.

The limitations of this work

The time available for this review was fairly limited and this has meant that much of the available literature has not been examined in detail. Indeed, only a small proportion of all the internal tobacco industry documents relating to New Zealand were examined. Furthermore, beyond the material supplied by ASH (NZ) there has not been an opportunity to examine the tobacco industry documentation held at the Guildford repository in the United Kingdom (except for a few documents on the tobaccopapers.org website).

Declaration of the absence of competing interests

The authors have previously undertaken contract work for the following agencies in the tobacco use epidemiology and control areas: the Ministry of Health, the Health Funding Authority, the Smokefree Coalition, Action on Smoking and Health, and the Australasian Faculty of Public Health Medicine. They have no financial interests in any tobacco or alcohol-related industries and have no links with any enterprises involved in commercial activities relating to smoking cessation (eg, counselling or pharmaceutical products).

Appendix B: The Industry and the Health Risks of Smoking (United Kingdom Testimony)

This appendix details minutes from the United Kingdom House of Commons Health Select Committee (Health Select Committee UK 2000) (for 13 January 2000).

Members present: Mr David Hinchliffe (in the Chair), Mr David Amess, Mr John Austin, Dr Peter Brand, Mr Simon Burns, Mrs Eileen Gordon, Mr John Gunnell, Mr Stephen Hesford, Dr Howard Stoate, Audrey Wise.

Questioning:

(Mr David Davies) Vice President of Philip Morris Europe.

(Mr Broughton) the Executive Chairman of British American Tobacco.

(Mr Wilson) Chairman of Gallaher Group plc. Until the end of last year I was the Chairman and the Chief Executive of Gallaher Group plc.

(Mr Gareth Davis) Chief Executive of Imperial Tobacco.

(Dr Gietz) Vice President of the Corporate Headquarters of JT International in Geneva in Switzerland.

David Hinchcliff

392. "So you all accept you have a legal duty to produce a safe product and you all accept that you are doing this."

(Mr Broughton) "To produce as safe a product as possible."

393. "As safe as possible. Can you be specific about what you mean. What you are saying is that smoking is always a risky business and, therefore, you cannot have a safe product."

(Mr Broughton) "Correct."

394. "There cannot be a safe way of smoking? Is that what you are saying Mr Broughton?"

(Mr Broughton) "There is no safe way."

(Mr Wilson) "I would say that."

395. "Mr Wilson, you are quite clear on this categorically, there is no safe way of smoking?"

(Mr Wilson) "To my knowledge as at today there is no safe cigarette."

(Mr Broughton) "Yes."

396. "Is that a general consensus amongst our witnesses? It is a very important point, that there is no safe cigarette. Is that generally agreed? Would you all respond on this

point.”

(*Mr David Davies*) “That is a view which has been stated by Philip Morris. I think it is fair to say that the industry is not capable of producing a product which the health community would regard as safe. It is Philip Morris’s view that today there is no safe cigarette.”

397. “It is Mr Broughton’s view and it is Mr Wilson’s view. There are other witnesses, is it also your view? Do you subscribe to that point?”

(*Mr Gareth Davis*) “Chairman, I do not think that we can say that it is safe or it is unsafe. We are obviously aware of the public health debate.”

398. “So you are not sure whether it is safe or unsafe?”

(*Mr Gareth Davis*) “What I am saying is we do not know whether it is safe or unsafe.”

399. “So you differ from your colleagues on this. They have made quite clear where they stand.”

(*Mr Gareth Davis*) “I do not understand the full context or background to their judgments, but—”

400. “You differ. You would not be as definite as they are quite clearly on this.”

(*Mr Gareth Davis*) “I can only back up and repeat what I have said.”

(*Dr Gietz*) “To my knowledge there is no scientific definition of a safe cigarette so my answer to that question is I agree that there is no such thing as a safe cigarette. However, we are aware that we do produce and market a very controversial product that raises a serious health concern and, therefore, we do everything we can to do that as responsibly as possible. What we do in terms of product development, and we went into this in our submission too with our new high technology product such as HiQ, is much more important than anything we say.”

Questions from Dr Stoate

425. “Would you also all accept that the magnitude of the risk does have some bearing on whether that is a sensible behaviour or not? I want to pick up on something which Mr Wilson said which was as we do not know which smokers are going to get which diseases then somehow it does not seem to be quite so important. I do not want to misquote you, Mr Wilson, but my understanding is you said that it is impossible to say which smokers will develop disease and, therefore, you have to argue with some of the statistics. Is that a fair statement of your position?”

(*Mr Wilson*) “No, that is not what I was trying to say. I was saying as a matter of fact that it is impossible to know which smokers will contract disease. To me the

important thing is to recognise that smoking is risky, is dangerous. We market our product on the clear premise, as Mr Broughton as already said, that everyone who chooses to smoke is aware of the risks. That is extremely important. I would not want to underestimate or undermine the risks and if I gave that impression I would like that to be corrected. I do believe that the degree of publicity going back over the last 50 years is such that there cannot be an adult smoker or an adult in this country today who is not aware of the risks. People will choose to smoke having informed themselves of the risk, being aware of the risks.”

Questions from Mr Burns

443. “Can I move on slightly to when the tobacco companies knew about the risks associated with smoking. When did your companies reach their current public stance on the risks of smoking?”

(Mr Wilson) “That is a hard one to answer. We have acknowledged the risks going back to the 1950s when the first Doll and Hill Report was published. We immediately worked both within the industry and with Government to address the very significant and important issues that were raised there.”

444. “Can I come back to that in a minute when I have had answers from your colleagues.”

(Mr David Davies) “We have acknowledged the statistical association for decades. I think it is fair to say that our thinking has evolved on this issue over the course of the years. Today our position is quite clear in acknowledging the consensus in the medical and scientific community that smoking causes serious diseases. If you are a smoker the only safe thing to do is to stop smoking. If you are not a smoker then the only safe thing to do is not to begin to smoke.”

(Mr Broughton) “As Mr Wilson said, since the mid-1950s or early 1950s the working hypothesis of research has been that there is a link between smoking and health and, therefore, let us assume that is the case and do some research. The changing position of the company is like anything else, as time goes by you get more information. A lot of it comes down to the different roles. The company has never done epidemiological studies, that is not the role of the company, I think that is the role of academics, scientists, public policy persons. The role of the company is to say ‘Let us take this as a working hypothesis and see what can be done about it? What are the biological mechanisms that are likely to be causing these statistics to come out? What product modifications can be made?’ From a research position, since the 1950s we have taken that as a working assumption and the research within the company has been directed towards ‘Okay, now what? What can be done about it?’ ”

Appendix C: The Industry and the Second-hand Smoke (United Kingdom Testimony)

This appendix details sections from the United Kingdom House of Commons Health Select Committee on the second-hand smoke issue (Health Select Committee UK 2000). (The references in the report can be accessed at the website).

41. “We also sought the views of the five companies on the health risks of environmental tobacco smoke. Mr Wilson of Gallaher rejected the findings of SCOTH that, amongst other things, ETS caused lung cancer and heart disease.[82] In written evidence BAT told us that they believed that “the claim that ETS presents a health hazard is not supported by the science”.[83] They argued that most studies of ETS have not shown any statistically significant increase in risk. In respect of dangers to children they noted “a number of reports of statistically significant increased risk of respiratory disorders in pre-school children exposed to ETS”.[84] Here they contended that the increased risks may be due to other factors statistically more common in households with smokers such as diet and housing conditions. They went on to suggest that the pattern of increased risk is “not consistently replicated” in children of school age indicating that any real effects are short-lived. They concluded “it is right that parents and other adults be particularly sensitive to the needs of young children, especially infants, for a clean, comfortable environment. It makes sense not to smoke around infants, especially in poorly ventilated environments and not to smoke around young children for long periods”.[85]

42. “We found BAT’s analysis of the epidemiology of environmental tobacco smoke largely unpersuasive. If they believe that no increased risk arises from passive smoking it is unclear why they thought it “makes sense” not to smoke around children for long periods. The word they – and Mr Wilson of Gallaher and Simon Clark of FOREST – used to describe the effect of ETS on non-smokers was “annoying”.[86] We asked Mr Wilson whether he would define an asthmatic attack, which the SCOTH report considered could be triggered by ETS, as merely “annoying”.[87] He replied that he accepted that ETS was “annoying, can cause this kind of unpleasantness but not lung cancer, heart disease etc.” Bearing in mind that asthma causes 1,400 death per year,[88] we do not regard asthma attacks as merely unpleasant and believe that policy goals related to ETS must take account of the real health risks it poses.”

43. “We also questioned Mr David Davies of Philip Morris about the activities of his company in respect of the debate on ETS. We specifically asked him to explain the function of Operation Whitecoat and to indicate the role of the late Professor Roger Perry of Imperial College in his capacity as an advisor to the Environment Committee on its 1991 inquiry into indoor air quality, which included a substantial section on environmental tobacco smoke. Mr David Davies told us that Operation Whitecoat was “the name given to activities in which we engaged in the late eighties and early nineties which were designed to solicit the support of those who shared our views in relation to environmental tobacco smoke and indoor air quality”. Mr Davies revealed that Professor Perry was associated with the tobacco industry from the late 1980s

and “subsequently became affiliated directly with Philip Morris”. Mr Davies assured us that Professor Perry’s affiliation with the industry and with Philip Morris was “very well known”. [89]”

44. “We wrote to Mr David Davies requesting further evidence that Professor Perry’s contract with Philip Morris had been notified to the Environment Committee. In response they submitted a newspaper cutting from 1988 which noted that Professor Perry had conducted research on indoor air quality funded initially by the Tobacco Advisory Council and later by Philip Morris and a New Scientist article which, based on documents released as a result of the Minnesota litigation, suggested that Philip Morris “secretly recruited influential people to help allay fears about the health risks from passive smoking”. This article also cited the former Clerk to the Environment Committee as acknowledging that the Committee members “knew Perry had done research for the tobacco industry”; according to the article, the Clerk went on to add “he cannot recall Perry mentioning that he had any deeper relationship with Philip Morris”. [90] We went back to the then Clerk of the Environment Committee who confirmed that, as far as he was aware, the Committee had known that Professor Perry had conducted research in the past for the tobacco industry but had not been told of his other contracts with Philip Morris, although he acknowledged that Professor Perry “may have mentioned the fact that he had a general retainer from Philip Morris to the then Chairman, Sir Hugh Rossi MP”. [91]”

45. “The issue of ETS is crucially important for the tobacco companies. The central strand of their defence of their activities is that smoking is a matter of free and informed adult choice. If dangers are found to attach to other people’s smoke, and if non-smokers such as young children in a smoker’s house are unable to avoid that smoke, those non-smokers are not exercising free choice at all. ...”

Appendix D: Revenue and Profits of the Tobacco Companies Trading in New Zealand

British American Tobacco

In 2000, British American Tobacco had international tobacco revenues of 24.83 billion pounds, with operating profits of 2.57 billion pounds (BAT 2000).

The company's interim report to June 2001 states that the operating profit for six months was \$1.3 billion (up 11%), with pre-tax profit up 33% "with all regions contributing to this growth." "The four global drive brands, Lucky Strike, Kent, Dunhill and Pall Mall, performed well with growth of 9 per cent." (BAT 2001)

In the year 2000, the 100% owned Australasian subsidiary had sales of \$3.8 billion and profits of \$A246 million (BAT Australasia 2001).

Imperial Tobacco

The company's interim report to March 2001 states:

"Imperial Tobacco has again delivered record interim profits demonstrating its commitment to sustained profit growth for the benefit of shareholders. Profit on ordinary activities before taxation in the half year to 24 March 2001 increased by 6% to £223m, with earnings per share rising by 7% to 31.2p from 29.2p. Profit before tax and amortisation of £6m, rose by 7% to £229m, equivalent to an increase of 8% in earnings per share to 32.3p. Excluding the benefit of the Baelen and EFKA acquisitions at the start of the financial year and the Mayfair acquisition in December 2000, earnings per share rose by 7%.

Your Directors have therefore declared a 7% increase in the interim dividend to 10.8p per share, reflecting this encouraging performance. Turnover in the half year to 24 March 2001 was up 3% to £2,767m from £2,687m in 2000 and turnover excluding duty rose by 6% to £654m. Operating profit increased by £20m to £274m as a result of a robust performance in the UK and continuing growth in international markets." (Imperial Tobacco Co 2001)

Philip Morris

Between 1989 and 1999, Philip Morris' international tobacco revenues increased 226% to \$US 27.4 billion, while profits from those sales rose 400% to \$5.05 billion (Eleventh World Conference on Tobacco or Health 2000).

From 1999 to 2000, the international (non-United States) tobacco earnings (profits) rose 4.9% to \$5.2 billion. The overall company net earnings rose 10.9% to \$8.5 billion, with earnings per share rising 17.4%. During 1985-2000 the annual average annual growth rate for that earnings per share was 15.4% (Philip Morris 2000b).

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