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“Create a Bigger Monster:” Tobacco industry actions to neutralize three landmark Surgeon Generals’ Reports

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The tobacco industry’s interest in the Surgeon Generals’ reports has been substantial and the industry has long used an array of strategies to reduce the impact of the reports. Three reports (Smoking and Health: Report of the Advisory Committee, 1964; The Health Consequences of Involuntary Smoking, 1986; and Nicotine Addiction, 1988) presented particularly significant threats to the manufacturers’ public image, sales, and efficacy in litigation. The 1964 report, of course, was the first; the 1986 report focused on involuntary exposure to secondhand smoke; and the 1988 report comprehensively addressed addiction. Internal industry documents released initially as a result of litigation provide insights into how the companies and their industry-wide organizations (the Tobacco Institute [TI]), its lobbying and public relations arm, and the Tobacco Industry Research Committee [TIRC], later renamed the Council for Tobacco Research [CTR])—devised strategies to influence report findings or minimize their impact. This Appendix reviews the industry’s internal documents related to these reports, illustrating the content of these documents around strategies related to the Surgeon General’s reports. Several researchers have previously used these documents to address industry activities in regards to the 1986 and 1988 reports (e.g., Brandt 2007; Michaels 2008; Proctor 2011; Mars and Ling 2008).

The industry documents have not been used as a primary source in past reports. Substantial scholarship documents their utility for understanding tobacco industry strategies and consequently they are reviewed for historical purposes and as background for section 3 of this report. The documents do not lend themselves to the systematic review approaches typically used in these reports. Additionally, for the reports and topics covered, the documents largely provide the industry’s perspectives through its own lens. This appendix does not attempt to cover the views of all other stakeholders, e.g., the research and public health communities.

Search Approach

For this qualitative research study, a snowball sampling design was used to search the Legacy Tobacco Documents Library (LTDL, <http://legacy.library.ucsf.edu>), a digital repository of previously internal tobacco industry documents (Malone and Balbach 2000). Created in 2002 by the University of California, San Francisco Library, LTDL is a centralized source of information on the industry with more than 14 million documents (80 million pages) related to advertising, manufacturing, marketing, sales, scientific research, and political activities. For this section, LTDL was systematically searched between July 31, 2012, and September 28, 2012, utilizing standard documents research techniques (Anderson et al. 2011). These techniques combined traditional qualitative methods with iterative search strategies tailored for the LTDL data set (Miles MB 1994, as cited in Anderson et al. 2011). Prior to searching for documents, a search for secondary source materials was conducted using LTDL's comprehensive bibliography (<http://www.library.ucsf.edu/tobacco/docsbiblio>) to find relevant articles. The articles provided background information that informed the document searching. Only those papers that directly addressed how the industry reacted to the Surgeon General's reports are cited here.

Initial research questions were "Did the industry try to influence the content of the 1964, 1986, and 1988 Surgeon General's reports?" "If so, how?" "Did the industry try to minimize the impact of these Reports?" "If so, how?" Based on these questions, initial keyword searches included Koop (the Surgeon General at the time of the 1986 and 1988 reports), report, "environmental tobacco smoke," ETS, "surgeon general," "Luther Terry (Surgeon General for the 1964 report)," "James Hundley," "Peter Hamill," SGR, and addiction. This first set of keywords and phrases resulted in the development of additional search terms and combinations of keywords (e.g., "Clarence Little," "George Allen," "reduced nicotine," "Cipollone addict* SG," IAPAG, "American College of Toxicology," "scientific witness," and "involuntary smoking").

These iterative searches returned hundreds of thousands of results. Researchers reviewed 10,737 documents and a final group of 513 documents were deemed relevant to one or more of the research

questions. Memos were written to summarize the relevant documents and to identify the representative 175 documents that are cited in this Appendix.

Limitations

This review has certain limitations. It was restricted to three Surgeon General's reports. The search process was constrained because there were numerous keyword searches that could not be undertaken. Therefore, the data give only a partial but illustrative view of events. Anderson points to the limitations of document research in general, including the huge quantity of available documents which makes it impossible to develop "a comprehensive list of search terms capable of returning every document relevant to a topic" even if ample time existed. Further, "documents in the LTDL and similar tobacco documents archives are of unknown representativeness" (Anderson et al. 2011).

Findings

Smoking and Health: Report of the Advisory Committee to the Surgeon General of the Public Health Service, 1964

The Industry's Role Prior to the Report's Release

The Public Health Service (PHS) treated the tobacco industry as a stakeholder in the report's preparation and the industry decided to participate in order to influence its outcome. In July 1962, Surgeon General Luther Terry invited George Allen, TI President, to the first stakeholders' meeting on the planned Surgeon General's report "to discuss the plan for doing the study and to obtain your suggestions as to scientists who would be suitable members of the Advisory Committee" (Terry 1962, Bates No. 1002609805-1002609806, p. 1). The second and third points in the plan authored by Dr. James M. Hundley, Assistant Surgeon General for Plans, were to conduct a study in two phases looking first at the "nature and magnitude of the health hazard" and then providing recommendations for action with a comprehensive, disease-based approach for the first phase (Hundley 1962, Bates No. 70114249/4249).

The industry was initially divided about the level of threat presented by this first comprehensive national inquiry into the health effects of smoking. Robert C. Hockett, second-in-command at TIRC—the

organization set up in 1953—sent a cable to Richard W. Darrow, Executive Vice President of Hill & Knowlton, its public relations agency, that warned

We think Hundley memo ominous especially #2 and #3. Outlined procedure assumes large degree guilt already and only remain to decide magnitude and disease areas. ... If outlined procedure followed, study could become grand inquisition of tobacco regardless of assurances of objectivity and impartiality (Hockett and Thompson 1962, Bates No. 11308817/8817, p. 1).

However, a summary by Hill & Knowlton, presumably based on reports from Allen and Clarence C. Little, TIRC's Scientific Director who attended the meeting, that was sent to TI member companies did not reiterate these concerns; instead it stated "The attitude and approach of the Surgeon General and his staff seemed fair and objective" (Hill & Knowlton 1962d, Bates No. 1005038421-1005038422, p. 1).

Appointment of Advisory Committee

Going into the meeting the industry already knew that PHS planned to exclude from the Advisory Committee "scientists who have already taken a strong position [on smoking and health] pro or con" (Hundley 1962, Bates No. 70114249/4249, p. 1). The Hill & Knowlton memo further reported that lists of potential nominees "were passed out to those in attendance with an invitation to 'strike out' any of those to whom there are objections" (Hill & Knowlton 1962d, Bates No. 1005038421-1005038422, p. 1). It took Hill & Knowlton's Ken Austin only 2 days to compile a list of "published or quoted remarks by the scientists named which indicate their known views on tobacco and health" (Anonymous 1962a, Bates No. 11308744/8744, p. 1) and to assign grades (A for "a man likely to be helpful; B men who have not taken any position as far as our records go; C men who have expressed views that raise doubt as to their neutrality") for the PHS recommendations of possible appointees (Austin 0000, Bates No. CTR0023258-CTR0023272, p. 1).

The tobacco industry doubted that it could get "a clean bill of health unanimously" (Cullman 1962, Bates No. 1005038456/8457, p. 1) from the Committee, but seemed satisfied that it could engineer a "split jury" (Cullman 1962, Bates No. 1005038456/8457, p. 1) within the proposed structure. The industry searched for potential nominees who had remained noncommittal, at least publically, on the

smoking and health issue and might, therefore, be more likely to take industry-friendly positions. Industry lists included Jacob Furth (Austin 1962a, 11307728/7729) and Louis F. Fieser (Austin 1962b, 11307723/7724), both of whom were appointed. In addition, the ACS suggested Maurice H. Seevers, who had been paid \$8,750 (\$63,000 in 2010 dollars) as an American Tobacco consultant in 1961–1962 (American Tobacco Company 1964, 950219002). Fully one-half of the 10 appointees to the Committee were recommended by the industry or its ally, Joseph Berkson. Clarence Little, TIRC director, wrote to James Hundley, “May I say in closing that I greatly appreciate the very democratic way in which this whole matter [procedure for picking the Committee members] has been approached” (Little 1962a, Bates No. 11307760/7760, p. 1).

Submission of Evidence to the Committee

The Advisory Committee held its first meeting in November 1962 at which time Hundley enumerated the resources that would be available to aid its analysis. He noted that in addition to PHS, the National Library of Medicine, and public health organizations, TIRC had offered to supply papers, research, and data (Anonymous1962c, 23286). It was not until March 1963, however, that Hundley officially asked TI for research (“actual data, summaries of data or literature citations”) that had been conducted by the tobacco companies or “industrial research groups” (Hundley 1963, Bates No. USX4611557, p. 1).

Most of the companies sent research, mainly citations of published work along with some unpublished papers; TIRC submitted similar types of information, but at a much greater volume (“mountains of material”) (Hamill 1963c, Bates No. 23273, p. 1). Not only did Clarence Little deliver documents to PHS but he also sent documents or citations directly to Committee members (Hockett 1963a, Bates No. 11303765/3765; Little 1963c, Bates No. 1005102614; Bayne-Jones 1963, Bates No. USX263234; Little 1963a, Bates No. 11309276/9276). It is not known whether all material sent to PHS was vetted by industry lawyers, as was often the case with industry-produced documents, but attorneys were certainly kept apprised of what the companies, TI, and TIRC were doing (Temko 1963, Bates No. 1005102805; Cutchins 1963, Bates No.680249782/9783; Hockett 1963b, Bates No. 11308912-11308918).

However, in addition to withholding the British American Tobacco's nicotine research, the industry failed to provide the Committee information about the Ecusta Corporation's American tobacco-financed condensate and whole smoke experiments, smoke carcinogens, and RJ Reynolds' Claude Teague's "Survey of Cancer Research" (Proctor 2011).

The research sent to the Committee fell into two broad categories which the industry thought would weigh against causation: (1) factors other than tobacco that cause disease and (2) negative findings on purported tobacco-related diseases. Among the nontobacco disease vectors to which they pointed were: lighters or matches (Heaton 1962, Bates No. 30588); genetic predisposition (Little 1963d, Bates No. 1005102366); pesticides or food additives (Hockett 1963e, Bates No. 30552); sex differences (Hockett 1963d, Bates No. JD093696); and socio-economic factors (Hockett 1963c, Bates No. JD093695) in lung cancer incidence. The industry did its best to present evidence that smoking had no effect on coronary functioning (Little 1963e, Bates No. 1005102247-1005102248); that statistical or epidemiologic studies were methodologically flawed (Hoyt 1963, Bates No. 1005102299-1005102302; Hickam 1963, Bates No. 11309441/9441); that reliable rates of lung cancer incidence were difficult to obtain (Hockett 1963f, Bates No. 23260); and that levels of naturally occurring radioactivity in cigarettes were negligible (Little 1963f, Bates No. 1005102337-1005102343). Further, apparently at the request of the PHS, Robert Hockett submitted a bibliography on the possible beneficial effects of tobacco (Hockett 1963b, Bates No. 11308912-11308918).

Richard Kluger, in *Ashes to Ashes*, pointed out that some of the industry-submitted research was "a classic example of the tobacco industry's wanting it both ways – the right to deny that there was a real health problem due to smoking, but just in case there did happen to be one, to claim that it could be readily fixed" (Kluger 1996, p. 237). Kluger wrote that Committee member Louis Fieser, unbeknownst to the Surgeon General's office, was a consultant to Arthur D. Little (ADL), which had a long-term research contract with Liggett & Myers (L&M). Fieser contacted ADL asking them to submit the research to the Committee that eventually led to the creation of the filtered Lark brand, which they did. In a letter to Peter Hamill, PHS's Scientific Coordinator for the report, Fieser wrote that he viewed the research as a "major

breakthrough. “ and further, “My impression from the report was that the Lark cigarette was merely in experimental trial, but actually Larks are on sale in various areas and are being accepted with enthusiasm. On a consulting trip to Roswell Park, I laid in a supply and have switched to Larks from a brand I have smoked for 30 years. A pack is being sent to you separately” (Fieser 1963, Bates No. 23279, p. 1). Kluger also reported that two other Committee members were smokers, as were Terry, Hundley, and Hamill.

Initial Strategy and Internal Industry Conflicts

From the beginning, the industry knew that it would take a major effort, involving the coordination of the scientific, legal, and public relations staff from both the companies and the industry-wide groups, to obtain outcomes favorable to their interests for the report as well as for potential Federal Trade Commission (FTC) and Congressional actions. As soon as the Surgeon General announced his study, George Allen recommended the formation of a Special Committee to coordinate the efforts of the industry to obtain such outcomes. It would be composed of legal representatives from the six companies facing smoking and health litigation, chaired by TI’s legal counsel, with Allen the liaison to TI public relations staff (Allen 1962d, Bates No. 1005038410/8412). Although it is unknown whether this committee was ever established, Timothy V. Hartnett, TIRC Chairman, responding to a Brown & Williamson executive’s suggestion, indicated his interest in having someone from the Litigation Counsel Committee designated as a liaison to TIRC because their advice “should prove to be invaluable in the preparation of our case” (Hartnett 1962, Bates No. 11308707/8707, p. 1).

Clarence Little was adamant that corporate contact with PHS be cleared with TIRC. “Direct individual approach without such consultation and clearance is fraught with the most serious and dangerous possibilities” (Little 1962b, Bates No. 1002609781/9784, p. 2). It would indicate a lack of coordination and cooperation, a lack of confidence in TIRC, inappropriate, nonscientific advocacy and could lead to “contradictions and misunderstandings” (Little 1962b, Bates No. 1002609781/9784, p. 2). On the other hand, the Hill & Knowlton staff operated as extensions of TI and were given authority to interact with PHS although they reported back on their contacts. For example, Edward H. DeHart, a Hill & Knowlton Vice President, reported to George Allen that he was in close contact with Alec Kritini, the

Advisory Committee's public information officer, who informed him that he would call as soon as the White House approved the press release announcing the appointment of committee members (DeHart 1962, Bates No. 11308765/8765).

Despite a desire for unity, there were differences among industry players about strategy. For example, in early October 1962, Paul M. Hahn, President of American Tobacco, wrote to George Allen about a disagreement at a joint meeting of TI and TIRC executive committees on whether to place an ad or ads, before the report was released, stating that the charges against cigarettes as a health hazard do not constitute a "closed case" against smoking. He reported that those in favor suggested

that the atmosphere in which the Surgeon General's panel would make their study was becoming increasingly poisoned by charges which, by repetition and absence of effective contradiction, would make it difficult and perhaps impossible for any panel to operate objectively and with an 'open mind' of which we have been assured and which is all that we ask for (Hahn 1962, Bates No. TI41581636, p. 1).

Further, "such a poisoned atmosphere might react unfavorably on our ability to get fair consideration from juries in the various litigations pending." Those opposed thought that an ad would "attract attention to the charges and gain acceptance for them because of our recognition of their seriousness" (Hahn 1962, Bates No. TI41581636, p. 1). Howard Cullman, a Philip Morris board member and uncle of the company's president, also alluded to internal divisions in a letter he sent shortly after the Committee's first meeting to Benjamin Sonnenberg, a prominent public relations consultant.

It [influencing the Report's content] will need, obviously, a screening and indoctrination of the Committee, which to me would seem to be our No. 1 project during the course of the next year. It is also highly important, with which I am sure you will agree, that no one individual carry the ball, write opinions, or try to influence the other members of the Committee as dummies to put on their Spencerian flourish (Cullman 1962, Bates No. 1005038456/8457, p. 1).

Many industry public relations projects, particularly those undertaken by TI, were evaluated on how they would affect Committee deliberations. In February 1963, Clarence Little had several objections to a draft of a pamphlet, titled "Some Frank Words About Smoking and Health," prepared by Hill & Knowlton possibly for physicians and other educated opinion makers. He cautioned

If the Surgeon General's report is so biased or so "unfair" that we have to prepare and publish a counter-report much of the material included in the proposed pamphlet would

be ammunition for a counter-report. If such material has already been made public in the proposed pamphlet, it will be repetitive to use it again and weakens its influence (Little 1963b, Bates No. LT0004022/4022, p. 1).

No evidence was found indicating that the pamphlet was ever printed so it is possible that Little's position on not proceeding prevailed.

Personal Relationships

George Allen and Clarence Little used relationships with PHS staff and Committee members to attempt to affect the report. For example, Allen called the Surgeon General in order to confirm that the Committee was going to consider nontobacco factors that might cause lung cancer such as viruses, genetic makeup, and prior lung damage (Peter Hamill thanked Little "for your generous hospitality and the excellent discussions (both on the immediate topic and other items more remote)" and went on to say, "I think I would like to take you up on your offer of a guest membership to the Harvard Club. The location seems most convenient and the accommodations appear comfortable and quiet, being conducive to both rest and getting some work done away from home" (Hamill 1962, Bates No. 6728, p. 1). In April 1963, Hamill wrote to TI's Hartnett "I especially enjoyed some of our tangential talks particularly at lunch time about our attitudes toward the study and the probable final report. I don't want to belabor the point but I would like to again thank you and Dr. Little very sincerely for your great generosity, your interest, your honesty, your friendship and encouragement" (Hamill 1963a, Bates No. JD093804, p. 2).

Despite having cordial relationships with PHS staff and the Committee, the industry was diplomatic and strategic in voicing its concerns on the few occasions that it thought biased opinions contrary to industry interests were being expressed. The Kraybill incident was one of those times. Herman F. Kraybill, a PHS biochemist assigned as the Committee's executive director, gave an interview to his hometown (Lancaster, PA) newspaper before the Committee's first meeting, in which he stated that current information "definitely suggests tobacco is a health hazard" (Hill & Knowlton 1962c, Bates No. 980200587, p. 1) and that he anticipated certain recommendations for action from the Committee. George Allen, in a letter to Peter Hamill, was "astonished, to say the least," at the "obvious impropriety" of Kraybill's statement (Allen 1962b, Bates No. 11308700/8700, p. 1). W.T. Hoyt, TIRC's Executive

Secretary, writing to Allen, said that Clarence Little was also “shocked and disappointed” and although the matter “is a delicate one, he [Little] nevertheless feels that it is important to be on the record with the Surgeon General” (Hoyt 1962, Bates No. 11308699/8699, p. 1). Even Philip Morris research staff were concerned. A. Bavley, Philip Morris’s Research Division Manager, wrote to Helmut Wakeham, Philip Morris Director of Research and Development, that he thought a complaint should be filed (Bavley 1962, 1001816350). Unbeknownst to Bavley, Allen had already talked with and written a letter to Luther Terry about how “disquieting” this apparent bias was (Allen 1962c, Bates No. 11308695/8695, p. 1). Finally, Hill & Knowlton reported that in a conversation with Allen, “Terry thought Kraybill had done a terribly foolish thing, said Dr. Hundley would see to it that it didn’t happen again, said they would watch Kraybill’s performance to see that his future actions were ‘fair’” (Hill & Knowlton 1962b, Bates No. 966048566, p. 1).

The Industry’s Public Face

But it was not just the Advisory Committee and PHS staff that the industry tried to lobby. Also important was the court of public opinion, largely influenced by the press. In general, TI carefully monitored media outlets, relying on Hill & Knowlton’s weekly “Tobacco News Summary” and other intelligence. The industry tried to place or shape stories and protested when they read, saw, or heard something not to its liking. In a public relations report to TIRC the week after the Advisory Committee’s first meeting, it was noted that

In addition to continuing contacts with newsmen and science writers in major metropolitan areas, special contacts have been made by Hill and Knowlton, Inc. field men in selected cities across the country for a discussion of tobacco and health and to provide media people with background material. ... Contacts were made with 117 media people on 65 newspapers in 38 cities (Hill & Knowlton 1962a, Bates No. HT0145095/5100, p. 1).

Initially, the industry’s public position was earnest support for the investigation. At the July 1962 meeting in which Terry outlined the process, George Allen welcomed the study and went further in saying,

No one has a greater interest in learning the facts about this subject than persons engaged in the production, manufacture and distribution of tobacco. They are, first of all, human beings who are anxious, like everyone else, to find the answers to these important health questions. In addition, it is a matter of deep personal concern. They seek the facts, which only impartial and comprehensive scientific examination can produce (Allen 1962f, Bates No. 11308808/8809, p. 1).

But, by the end of 1962, Allen was beginning to hedge. A UPI story quoted him as saying “it is unreasonable to expect ‘any group of men’ to give final answers, on the basis of existing information, to the cause of lung cancer.” And that he hoped it will be a “thorough study and, as the Surgeon General has said, ‘will be concerned not only with tobacco but all other factors which may be involved’” (van Aken 1962, Bates No. 002473, p. 1). Joseph F. Cullman, 3rd, President of Philip Morris, in his message to the annual stockholders’ meeting in April 1963, took up this theme. Using fully half of his speech to address health issues, he conceded that “It appears that they [the Committee] have approached this extraordinarily complex question with more care than has previously been devoted by any investigative body.” But, he continued, “there is increasing evidence that implicates factors other than smoking” and concluded with “I am personally convinced that cigarettes will ultimately be exonerated” (Cullman 1963, Bates No. 1002333609/3614, p. 3).

What Was Said Inside the Industry

Internally, there was a wide and changing spectrum of opinion about the report’s outcome. In August 1962, George Allen was somewhat optimistic, at least about the prospects for an “impartial” study, and hoped “that we can get out of the jingoistic propaganda warfare and into the scientific realm” (Allen 1962a, Bates No. 1005038441, p. 1). Even in December, Little and W.T. Hoyt remained confident, at least according to G.F. Todd, Director of the British Tobacco Research Council. In a report on his trip to New York City, Todd says that Hoyt pronounced their meeting with Peter Hamill as “almost too good” and “if T.I.R.C. had had the choice, they would not have set up the operation in any way differently.” Todd went on to say that “Little and Hoyt expect an adverse report but they think that it should not be too bad and certainly not nearly as extreme as the R.C.P. [Royal College of Physicians] report. ... So far the S. G. A. C. appear to have been able to resist the lobbying pressure of the American Cancer Society.” And,

lastly, “What gives T.I.R.C. most reassurance however is a recent utterance by [Department of Health, Education and Welfare Secretary] A.J. Colobrozze, who ... was reported in the New York Times of 3rd December as stating that ‘even if smoking is found harmful by the Scientific Committee now reviewing the evidence, the Government should not tell people to give up cigarettes” (Todd 1962, Bates No. 105383141-105383143, p. 2-3). But by June 1963, many within the industry were worried. J.V. Blalock, a Brown & Williamson public relations executive, reporting on his trip to New York to meet with the heads of Hill & Knowlton, TIRC and TI said:

The consensus is that the industry is in a “grave crisis,” and the philosophy is “to expect the worst and work for the best”. Of course the greatest cause for alarm is the forthcoming Surgeon General’s report, which is expected to be detrimental to the industry. The only degree of hope is the possibility that, instead of singling out tobacco per se, the report will take into account a list of other agents (environmental and otherwise) which are suspect. However, this is deemed a rather dim hope, because indications point to a strong indictment of tobacco, with possible “root-shaking” consequences...” (Blalock 1963b, Bates No. 680279468/9471, p. 1-2).

He stated their “real concern is the mounting organized opposition, along with the extensive press coverage.” Further, though, was what he perceived as a “wait-and-see” attitude being taken by TI, which has led the industry to being “terribly ill-prepared to meet the present and pending crises” (Blalock 1963b, Bates No. 680279468/9471, p. 3).

Industry Strategy Immediately Before the Report’s Release

By the end of August 1963, the industry was discussing ways to “offset the heavy flow of anti-smoking attacks” (Blalock 1963a, Bates No. 680279422-680279427, p. 5) that were mounting in expectation of the report’s release. Once again, the question of paid advertising arose. Hill & Knowlton and the company PR representatives wanted to run an ad that would, among other things, “remind the public of areas of doubt, ... generate publicity and conversation about controversial aspects, ... and give encouragement and support to potential allies by presenting them with important data” (Blalock 1963a, Bates No. 680279422-680279427, p. 2–3). There was overwhelming opposition at the meeting at which Richard Darrow of Hill & Knowlton presented the concept. According to J.V. Blalock, comments ranged from “The impact of an advertisement would be less effective than a position of dignified patience; the

latter position will increase interest in what the industry will say when the report is issued” (Little) to “Any time we take a public position, we embarrass the Scientific Advisory Board [SAB]. The SAB thinks we should have shut up 10 years ago and turned the situation over to the scientists” (W.T. Hoyt). Legal counsel and Allen were also opposed and Blalock thought that the points made for running the ad were “so patently fallacious as to be ludicrous. Of course the ad would ‘generate publicity,’ but would it be favorable publicity?” (Blalock 1963a, Bates No. 680279422-680279427, p. 3-5). It does not appear as though the ad was placed.

In September, TI Public Relations Committee held a meeting to prepare for the forthcoming report to which they invited legal counsel, selected Hill & Knowlton staff, Allen and Frank Welch of TI, and Little and Hoyt from TIRC. A.J. Bass, reported to his boss, H.J. Cramer, the president of Lorillard, that three approaches to the anticipated “harsh or damaging report” were discussed: (1) dispute the report’s findings or methodology -- “Hill & Knowlton asks ‘How much belief would the public have in this stand?’”; (2) accept the report and “take whatever consequences follow – This is believed to be weak position”; or (3) “accept the report as decision of the moment but go on record that appeal will follow. In this way the industry: a. Defends its integrity; b. Pledges further research on “grey” areas; and c. Find accommodations – restrictions we can ‘live with’” (Bass 1963, Bates No. 84409557-84409558, p. 2). The participants decided to go with the last option and a series of questions for the companies on how they wanted to adapt their public stances to this potentially changed environment were discussed. One of the questions was whether the industry should sponsor a new research initiative and “get off the hook by anteing up some impressive sum of money or even a blank check and offering [to] the Surgeon General to support added research” (Heimann 1963, Bates No. 966042274/2276, p. 2). After the report was released, the industry did offer to collaborate with the federal government on research (Little 1964a,b) and the six major tobacco companies pledged \$10 million over a 5-year period to AMA for research on smoking and health (Philip Morris 1964a). Others cautioned that any changes in position on the science would have to be done “without implying that T.I.R.C. was a phony or a public relations gimmick, which is, of course, not the case” (Heimann 1963, Bates No. 966042274/2276, p. 2).

Between the end of September and January 11, 1964, when the report was issued, the industry largely focused on public relations, trying to put a spin on what was likely to be an unfavorable report, with particular emphasis on press and television coverage. At the end of October, Hill & Knowlton reported that “there is growing speculation in the press and other media about the report ... [and] many publications are preparing special stories about the industry for use prior to, or at the time of the Surgeon General’s report” (Hill & Knowlton 1963, Bates No. 950181555/1557, p. 1). Included in its report was information on six such stories in major national media outlets although it is not known what the industry was planning to do with this intelligence. Hill & Knowlton and TI were primarily responsible for press contacts, but sometimes company personnel were involved. In early January, Philip Morris’s Helmut Wakeham, sent Frank Carey, an Associated Press science writer in Washington, DC

a very scholarly article by Dr. Joseph Berkson which I mentioned to you at our meeting in Cleveland. This paper may require a bit of study on your part, but I recommend it as a very worthwhile effort to give you the proper perspective for our forthcoming report from the Surgeon General’s office (Wakeham 1964, Bates No. 1005038550, p. 1).

Howard Cullman also courted the media. In a January 1964 letter to Leslie Gould of the New York Journal American, he raised what would become one of the industry’s major critiques of the report—the lack of data on filtered cigarettes. He noted that sales of filtered cigarettes had soared from 3% in 1953 to roughly 60% in 1963. He goes on:

As advised you, there is much stress by some of the economists, statisticians and even some of the legitimate doctors that heavy smoking of cigarettes for twenty years has certain dire effects. Obviously there are no statistics or records of heavy smoking of filter cigarettes for twenty years, but they seem to skip over that lightly, like the cow jumped over the moon (Cullman 1964a, Bates No. 1005038518, p. 1).

Amid the flurry of public relations activity, American Tobacco Company was using the forthcoming report as “a most significant tactical element in the positioning” of a new brand of filter cigarette, code named HRH (Lippincott and Margulies 1963, Bates No. 966054657/4728, PDF p. 30). The brand strategy consultant projected that more people would smoke filtered cigarettes because the report would “emphasize reduction of health hazards by lowering total intake plus use of the higher filtration cigarette”(Lippincott and Margulies 1963, Bates No. 966054657/4728, PDF p. 32) although there might

be “swing-back” to nonfilter, more “flavorful” brands. The consultant, writing in September 1963, recommended “a strong flavor message during the early period of launch, switching to a filter message when the Surgeon General’s report, Reader’s Digest and other studies stimulate a strong filter interest among smokers. ... The objective is to exploit the anxieties created around the Surgeon General’s report as a means for obtaining initial switch to HRH” (Lippincott and Margulies 1963, Bates No. 966054657/4728, PDF p. 55).

By mid-December, a detailed plan for how and what the industry would do immediately upon the report’s release had been formulated (Bowling 1963, 1005038486/8488). As usual, George Allen would be the industry spokesperson and all companies agreed to “stand with” TI position. The ad hoc legal committee would be available for strategy consultation and statement clearance. In addition to an immediate brief statement saying that more detailed comment would be forthcoming, TI would send to some members of Congress and the press a kit with background information and a new publication titled “Some Unresolved Questions.” The companies would have “technical specialists on standby [to] call in the event more people are needed – i.e., press specialists, congressional contact, etc”(Bowling 1963, Bates No. 1005038486/8488, p. 3).

The Report’s Aftermath

On Saturday, January 11, 1964, Surgeon General Luther Terry finally released the report. A week later, Howard Cullman wrote to Bowman Gray, the Chairman of RJ Reynolds,

It would seem to me that we have hit Dr. Terry in no uncertain terms in his Achilles heel. My recommendation is that we let nature take its course and if any of the Senators or Congressmen or Cabinet officials want to rub salt in the wound, that is their province, but I think the industry handled itself in a statesmanlike manner and seemingly like Caesar’s wife. ... As you know better than I do, it takes about two years to cure tobacco, and I am confident it will take less time than that to cure the hysteria that I am sure will calm down if not stimulated (Cullman 1964b, Bates No. 1005038528, p. 1).

George Weissman of Philip Morris was more reserved in a letter to Joseph Cullman, a few weeks later

While the propaganda blast was tremendous and the penetration of public opinion very widespread, I have the feeling that the public reaction was not as severe nor did it have the emotional depth I might have feared. Certainly, so far it is not of a nature that caused the prohibitionists to go out with axes and smash saloons nor even of the more recent

shock and reaction to the thalidomide scandal (Weissman 1964, Bates No. 1005038559/8561, p. 1).

Weissman also recommended to Cullman “we must in the near future provide some answers which will give smokers a psychological crutch and a self-rationale to continue smoking” (Weissman 1964, Bates No. 1005038559/8561, p. 1).

Notes from a TI Executive Committee meeting held the day after the report’s release, prepared for L&M CEO Zach Toms, offered a more sober assessment. At the meeting, Bowman Gray lamented, “it cuts off a number of the answers [to the smoking and health question] which the industry has used to advantage [in litigation]. It is considered to be of prime importance that the industry maintain a united front and that if one or more companies were to conduct themselves as a matter of self interest, particularly in advertising, obvious vulnerability would be the result” (Haas 1964, LG2008203-LG2008210, p. 1). And litigating counsel thought “it is very damaging because ... the report plays down the paradoxes which the defense has used to create serious issues of fact. ... The report may well make it very difficult for the industry to obtain expert witnesses” (Haas 1964, Bates No. LG2008203-LG2008210, p. 5-7).

TI issued a short press release right after the report was released quoting George Allen saying he was confident that the report would get “the careful study it clearly deserves,” but underscoring Terry’s comment that “There is a great deal yet to be known of the subject [of smoking and disease]” with a pledge of industry support for more research to fill in the “gaps in knowledge which still exist in this broad field of scientific concern” (Pacey 1964, Bates No. 1005038555/8556, p. 1). It was not until mid-February, though, that a more detailed industry statement was drafted, probably by Hill & Knowlton or TI. It is not known whether another version of this document was publically released, but the points it makes can be seen in other external communications. The statement contained seven comments on, or criticisms of, the Surgeon General’s Committee and its report [edited for brevity]:

1. the Committee relied on statistics alone in applying its own new ‘criteria for judgment’ which it followed in calling cigarette smoking a ‘health hazard.’ In doing this, the Committee went beyond actual scientific data into the realm of opinions or

“judgments,” which it admits. As soon as it took this step, the Committee departed from the scientific method.

2. The report acknowledges that ‘no simple cause-and-effect relationship is likely to exist between a complex product like tobacco smoke and a specific disease in ‘the variable human organism.’

3. The report admits the existence of other factors, such as viruses, genetics, and previous lung ailments, which it says cannot be fully explained. By giving only passing notice to these and by brushing aside factors such as air pollution the report fails to give a full picture of current medical knowledge.

4. The report acknowledges gaps in knowledge and inconsistencies in its evidence.

5. The Committee fails to identify any substance or substances that account for its conclusions.

6. The report concedes that animal experiments have failed to show any mechanism by which tobacco smoke could cause cancer or other diseases.

7. The report admits that inhalation of tobacco smoke by experimental animals has failed to produce lung cancer. On the other hand, the report concedes that inhalation of other substances by experimental animals has produced lung cancer (Anonymous1964a, Bates No. MNATPRIV00024857-MNATPRIV00024861).

The statement concludes by saying that more research is needed and the industry intends to support such research, including a pledge of \$10 million to AMA. Historians have shown that one consequence of such payments was the failure of AMA to endorse the findings of the Surgeon General with regard to smoking causing lung cancer (Kluger 1992, Proctor 2011).

Also at the end of February, a public relations plan proposal took the analysis one step further. “The industry’s immediate objective is to make certain that extreme, unwarranted restrictive measures are not imposed by government” (Anonymous 1964b, Bates No. 1005038567/8574, p. 1). The plan recommended that the industry state its position to the public and place the “charges against smoking in perspective” (Anonymous 1964b, Bates No. 1005038567/8574, p. 2). In doing this, “Valid criticism can be most effective coming from others, with the industry assisting in getting these exposed to the public” (Anonymous 1964b, Bates No. 1005038567/8574, p. 4). Other types of allies, such as the “service and supply industries and individual companies within those industries,” (Anonymous1964b, Bates No. 1005038567/8574, p. 6) were to be encouraged to speak on behalf of the industry. Moreover, the memo recommended that the industry should explore the possibility of asking the governors from tobacco growing states to set up state-funded protobacco organizations that could be helpful in a variety of ways.

In early March the industry was still debating how to respond publicly. A report from TIRC, now renamed the CTR, supported the back door approach.

The staff of The Council feel, as Dr. Little has said, that the situation will not be helped by our making direct public criticisms of the report. Anything we say is likely to be discounted and might also compromise our opportunities to work constructively with the National Institutes of Health and with the American Medical Association in developing new research, filling gaps, and solving these very questions. On the other hand, public commentaries by experts in the field who are unconnected with The Council, published over their own signatures will have value (CTR 1964, Bates No. HK0998002/8008, p. 2).

Indeed, Alan Donnahoe, a statistician and vice president of Richmond Newspapers, had already published such a commentary and Joseph Berkson was also expected to do the same. CTR did recruit scientists and statisticians to write commentaries. For example, a few months later, RC Hockett of CTR, reported that he had asked Theodor Sterling, a University of Cincinnati biostatistics professor, to write a piece “with a particular view to pointing out questions which need further elucidation through research” (Hockett 1964, Bates No. 11287491/7491, p. 1). Sterling received millions of dollars in CTR Special Projects funds for his cigarette friendly work (Glantz 1995; Proctor 2011),

Conclusion

The industry made efforts to appear cooperative, to propose tobacco-friendly members for the Advisory Committee, to provide the Committee and PHS with substantial data while withholding other information, and to court the media and the public. However, a week after the report’s release, FTC announced its intention to issue rules that would put warning labels on cigarette packs. The industry had to jump quickly into the political fray. They continued to court scientists to convey industry positions and work with the media to obtain favorable coverage to downplay the report’s findings.

The Health Consequences of Involuntary Smoking, 1986

Introduction

Released in December 1986, the Surgeon General’s report, The Health Consequences of Involuntary Smoking (1986 report), reached three overarching conclusions regarding secondhand smoke or “environmental tobacco smoke” (ETS):

1. Involuntary smoking is a cause of disease, including lung cancer, in healthy non-smokers.
2. The children of parents who smoke, compared with the children of nonsmoking parents, have an increased frequency of respiratory infection, increased respiratory symptoms, and slightly smaller rates of increase in lung function as the lung matures.
3. Simple separation of smokers and nonsmokers within same air space may reduce, but does not eliminate, exposure of nonsmokers to environmental tobacco smoke (U.S. Department of Health and Human Services 1986).

Previous Surgeon Generals' reports had touched on the issue of secondhand smoke (see reports from 1972, 1979, 1982 and 1984) but this was the first report that focused entirely on the subject of secondhand smoke and identified a fatal disease risk resulting from exposure to tobacco smoke for nonsmokers.

Tobacco industry documents demonstrate that the tobacco industry recognized the significance of the 1986 report both in terms of greater public awareness of secondhand smoke and the smoking regulations that could follow from this knowledge. The industry initially attempted to influence the 1986 report's content and authors but finding no foothold, focused resources towards minimizing its impact. Strategies included discrediting the science on secondhand smoke; funding expert scientific consultants to brief various legislative bodies and organizations on the secondhand smoke science; funding research on secondhand smoke through industry-created organizations; and pointing toward a larger air quality/air pollution issue to deflect concern away from secondhand smoke as a health risk and undercut possible smoke-free regulations resulting from the 1986 report (Michaels; Oresberg).

Influencing the Report

In early 1986, TI executive committee meeting minutes noted that someone in the organization had received private information about the upcoming Surgeon General's report: "We start with intelligence. A paper plane through the transom gave us an outline and working list of authors for the Surgeon General's report" (Kloepfer 1986, Bates No. TI04820839-TI04820850, p. 5). This foreknowledge of the working contents of the 1986 report allowed the industry to attempt to influence not only the environment surrounding its release, but the section authors themselves. By April 1986, TI executive William Kloepfer assured executive committee members that "environmental science

consultants are already drafting a shadow report,” informed by the recently obtained 1986 report outline, to coincide with the Surgeon General’s publication in December. The documents provide no indication of how they came to possess this inside information but it is clear Kloefer relished the opening this “paper plane” gave the industry: “I salivate just a little at the prospect that they [the environmental science consultants] will actually deliver it [the shadow report] to the media when the moment comes. In 22 years of Surgeon General’s reports we haven’t had that essential facility” (Kloefer 1986, Bates No. TI04820839-TI04820850, p. 5). This “essential facility,” the opportunity to go on the offensive and publish a comprehensive report the same month as the 1986 report, resulted in “Tobacco Smoke and the Nonsmoker: Scientific Integrity at the Crossroads,” a 57 page publication aimed at a general audience which questioned the science behind the causal relationship between secondhand smoke and disease in the nonsmoker (Tobacco Institute 1986, Bates No. TIFL0054943/4999).

Documents indicate the industry had knowledge of the 1986 report’s proposed contents prior to April 1986, noting in that month that “plans are already well underway” regarding efforts to influence the 1986 report by setting the scientific stage in the industry’s favor (Kloefer 1986, Bates No. TI04820839-TI04820850, p. 6). For instance, a March 1986 memo exclaims it is “time for ETS Advisory Group to take up the question of sponsorship of a new symposium... We all regard the Geneva outing as a plus, but stale, and I think something new and domestic is urgently needed” (Kloefer and TI 1986, Bates No. TI04221656, p. 1). The “Geneva outing” was an international workshop/symposium on secondhand smoke held in Geneva, Switzerland, in 1983. Funded by TI (Rylander and Snella 1982, Bates No. TI10191910), the symposium’s proceedings, published in the *European Journal of Respiratory Diseases*, concluded that a causal relationship between secondhand smoke exposure and increased risk for lung cancer had not been established and more studies were needed (Rylander, Peterson, et al. Bates No. 880112060/880112208).

A workshop of the scope of Geneva never materialized in 1986, but plans began to coalesce for three smaller symposia on secondhand smoke aimed at physicians and health professionals. The fact that the industry decided to organize a symposium, instead of a conference or series of articles for an

exchange of secondhand smoke research is notable. Comprehensive research comparing the content of symposiums and journal articles on secondhand smoke suggests that the tobacco industry had specifically utilized the sponsored symposia model to disseminate scientific research on secondhand smoke that was favorable to its interests (Bero et al. 1994).

A report from an April 1986 meeting of TI-ETS Advisory Group notes that Sorell Schwartz, head of the Indoor Air Pollution Advisory Group (IAPAG), an organization of scientists frequently utilized by the industry as consultants on secondhand smoke, recommended a series of mini-symposia under the auspices of the American College of Toxicology of which he was a program committee member. The symposia would involve presentations by potential contributors to the 1986 Surgeon General's report and IAPAG scientists. However, unlike the industry-sponsored Geneva workshop, these proceedings would be "non-public with no press and no reports," the purpose instead being an "opportunity in a semi-private setting of presenting the industry view of ETS to possible contributors to the Surgeon General's report" (Green 1986a, Bates No. 511252577/2581, p. 4). The Advisory Group wanted to schedule the symposia "as soon as possible so as to involve key scientists who may be contributing to the Surgeon General's report before they get too deeply committed to the approach that the SG rather clearly has in mind" (Anonymous1986e, Bates No. TI46021109-TI46021115, p. 1). TI executive, William Kloepfer, in discussing plans for the symposia, notes: "The idea is that they [Surgeon General report authors] learn more about the uncertainties of the relevant science, and we learn more about the thrusts we can expect them to make. A pretty good investment, we think" (Kloepfer 1986, Bates No. TI04820839-TI04820850, p. 6).

Titled "Health Effects of Environmental Tobacco Smoke on the Non-Smoker (Passive Smoking)" and publicized as a Continuing Medical Education course through Georgetown University, the program and agenda stated the symposium will "involve presentation and discussion of the current data and is intended to provide clinicians and others a basis for evaluating ETS as an individual entity as well as its place as a component of the indoor air environment" (Anonymous1986d, Bates No. JDX325662-JDX325667, p. 2). The schedule included presentations from four Surgeon General report authors—Buist,

Hoffman, Hiller, and Wu and a number of frequently used IAPAG consultants (Anonymous 2004b, SCHWARTZS102004ER)—Philip Witorsch, Nancy Balter, Sorell Schwartz, Mark Reasor, Vincent Castranova, and Salvatore DiNardi. What it lacked was any mention of tobacco industry sponsorship.

Despite the absence of transparency, word got out about the industry’s backing of the symposium. A June 1986 Washington Post column reported that the American Lung Association (ALA) contacted the 1986 report authors, informing them of industry involvement in the symposium. Three of the authors (Buist, Hiller and Wu) chose to cancel their appearances due to the lack of transparency of tobacco industry sponsorship (Okie 1986, Bates No. TI46970707-TI46970709). Minutes from a May Advisory Group meeting said that “if more of the SG’s report authors pull out, Mr. [John] Rupp [of Covington & Burling] plans to cancel the discussions,” supporting the notion that regardless of the eventual university affiliation and CME status, this symposium’s purpose was to influence the 1986 report’s authors (Green 1986b, Bates No. 524131500/1504, p. 5). Samuel Chilcote, head of TI, complained to Otis Bowen, U.S. Secretary of the U.S. Department of Health and Human Services (USDHHS), that the course had been cancelled because a number of the authors were pressured by health organizations and the Surgeon General’s office to withdraw from the program (Anonymous 1986g, Bates TI11393154). Sidestepping the matter of undisclosed tobacco sponsorship, the industry instead proactively used this incident to paint a picture of censored science. According to the TO, intervention by the ALA and the Office on Smoking and Health was simply one more example of a “most direct threat to scientific integrity – the attempt to stifle free speech and academic freedom” (Tobacco Institute 1986, Bates No. TIFL0054943/4999, PDF p. 9).

Impact of the Report

The Surgeon General’s report on involuntary smoking was released in December 1986. A 1987 Philip Morris document summarizing the “Project Down Under Conference,” a three-day meeting on environmental tobacco smoke, makes clear the industry recognized the magnitude of the Surgeon General’s report: A scientific link between secondhand smoke and health risks to nonsmokers could translate into a landslide of smoking restrictions and regulations which would have a “devastating effect

on sales” (Anonymous1987n, Bates No. 2083045915-2083045947, p. 8). The minutes convey a real sense of urgency to the situation, calling the report of “watershed significance” and concluding that “we can’t stem the tide [of regulation] without addressing this report” (Anonymous1987n, Bates No. 2083045915-2083045947, p. 5). Although the issue of environmental tobacco smoke had been of mounting regulatory concern to the industry prior to 1986, the meeting concluded that this particular report had “galvanized [the] situation” (Anonymous 1987n, Bates No. 2083045915-2083045947, p. 7). In fact, John Rupp, an industry lawyer with Covington & Burling, sums up the industry’s situation in six words: “Where we are --- in deep s#!t” (Anonymous1987n, Bates No. 2083045915-2083045947, p. 4). Similarly, in his opening remarks for a 1988 seminar on secondhand smoke, Charlie Whitley, a TI Legislative consultant, looked back at the 1986 report, noting “We in the industry immediately recognized the impact and intent of this new report. It had the potential to become the same kind of impetus for more regulation and restriction that the 1964 report was on active or direct smoking” (Woodson 1988, Bates No. TI05470580-TI05470590, p. 6).

Discrediting the Science

Documents reveal the tobacco industry sought to minimize the impact of the 1986 Surgeon General’s report by discrediting the scientific studies that served as the foundation for the report’s conclusions. Creating doubt about the published science of secondhand smoke is a well-documented strategy used by the industry in order to influence public opinion and avoid possible smoking restrictions (Bero et al. 1994; Barnes et al. 1995; Barnes and Bero 1996; Muggli et al. 2003). Unable to initially influence the 1986 report or its authors, the industry renounced the report using an approach that duplicated much of their public response to the first Surgeon General’s report of 1964 (Anonymous1964a, MNATPRIV00024857-MNATPRIV00024861)—to personally discredit the Surgeon General and his motives, and argue the scientific methodology, data, and conclusions were flawed and more research was needed.

A number of tobacco company responses to the 1986 report reference C. Everett Koop’s goal for a smoke-free society by the year 2000 as the motivation behind the report’s conclusions. Philip Morris, in

developing a series of public communications on secondhand smoke and health risk, claimed the 1986 report was merely a vehicle for Koop's smoke-free society and that in his "headlong rush" towards this goal, he had ignored the science (Anonymous1986f, Bates No. 2501356698/6700, p. 2). Additionally, a draft letter-to-the-editor cites numerous instances throughout the Surgeon General's report of "contradictions between research and conclusions." The author goes on to say "I find it highly regrettable that the U.S. Surgeon General has apparently allowed his personal opinions to affect his objectivity at the expense of an unbiased, scientific approach to an extremely complex issue" (Anonymous1987f, Bates No. TI06390647/0649, p. 3).

TI also raised concerns about Koop personally, maintaining there were

clear and significant inconsistencies between what the Surgeon General has been saying publicly and privately about ETS during the past year. Those inconsistencies tend to confirm that the Surgeon General's public statements on ETS have been motivated by political rather than scientific considerations (Anonymous1987s, Bates No. TI03501440, p. 1).

Even as the 1986 report was being released, TI's 1986 "shadow report" publication, Tobacco Smoke and the Nonsmoker, asserted that leading scientific organizations and individuals (read Koop) had advanced the "flawed" science of secondhand smoke for purely political reasons. "Despite the glaring deficiencies in the data and the absence of scientific proof that environmental tobacco smoke harms nonsmokers, certain otherwise principled individuals and groups have persistently advanced the contrary proposition, as if it were established fact" (Tobacco Institute 1986, Bates No. TIFL0054943/4999, p. 5). This same report claimed Koop exaggerated the number and significance of studies focusing on secondhand smoke and lung cancer in order to discredit the views of "internationally prominent scientists that are inconsistent with his own publicly stated views" (Tobacco Institute 1986, Bates No. TIFL0054943/4999, p. 7).

In addition to public statements by the industry, an effort was made to generate questions about Koop's motivations that would appear to come from outside of the industry, lending credence to their allegations, the so-called third party strategy used earlier to discredit mainstream smoke science (Proctor 2011). The executives of five major labor unions, working closely with TI staff through the Tobacco

Industry Labor Management Committee (Chilcote 1987b, Bates No. TIDN0004373/4377), immediately released a formal statement in response to the 1986 report criticizing Koop's "relentless pursuit of a political agenda on the smoking issue [which] calls into question much of his credibility"

(Anonymous0000e, Bates No. TIOK0009582/9583, p. 1). After a January 1987 briefing on the 1986 Surgeon General's report by industry consultants in Denver, Ernest Hoffman, president of the Executive Public Relations Corporation, a TI lobbyist organization, suggested a major effort within the legislative community towards discrediting Koop

[W]e are desperately in need of something to originate in Washington in challenging the validity of the report as well as the integrity of the Surgeon General. I realize some quarters are hesitant to get into this type of campaign, however, I think it is justifiable in view of the grave consequences we can expect if that report is allowed to stand...there should be a thorough investigation of the entire performance level of the current Surgeon General since he has been in office. How much time has been devoted to all potential health hazards and is he handling the documentation of evidence in the same manner as the smoking report? In addition, what percentage of his total time and budget, including printing material, has been devoted to the smoking issue as compared to others? (Hoffman and Executive Public Relations 1987, Bates No. 506608104/8105, p. 2)

The intent to impugn the integrity of the Surgeon General remained a tobacco industry talking point for years after the release of the 1986 report. In 1992, in draft comments on a series of regulatory agency reports on secondhand smoke, the industry argued "The Surgeon General's claim that separation of smokers and nonsmokers does not minimize nonsmoker exposure to ETS is without scientific support. Thus, the underlying motivation for the use of ETS/health argument is to attain a 'smoke-free society by the year 2000'" (Anonymous1992, 2022888154/8194).

Documents show the tobacco industry poured substantial amounts of energy and resources into proving that the 1986 report lacked scientific proof that secondhand smoke harms nonsmokers. One step towards disputing the science was to amass all of the data that went into the 1986 report. A 1986 Freedom of Information Act (FOIA) request from John Rupp of Covington & Burling asked for copies of "all documents, data tapes, letters and other materials" pertaining to the report (Rupp 1986, Bates No. TI11392600, p. 1). A formal response from the USDHHS indicates that although many documents were turned over (mostly agendas, acceptance letters, and administrative materials), a number were withheld,

including reviewer comments and draft outlines (Anonymous0000d, Bates No. TI03501443). A lengthy appeal was filed by Covington & Burling in March of 1987, but it is unclear whether they received any further response or documents (Anonymous1987d, TI03501445). With the FOIA request, the industry had hoped to assemble a clear picture of the 1986 report's scientific foundations so as to find its weak points, but Roger Mozingo of TI notes their efforts had not proved fruitful, implying a lack of government cooperation: "as you would expect, health officials were less than willing to fully honor TI's FOIA request" (Mozingo 1987, Bates No. 506613378/3403, p. 8).

To diminish the scientific evidence behind the 1986 report, the industry undertook reviews of the major studies cited in the report. Emerging from these reviews were arguments that the report rested only upon epidemiologic (or statistical) studies and that these studies were flawed, based upon bad methodology and erroneous estimations of exposure (Anonymous1987p, 2501155652/5670). Moreover, according to TI's Charlie Whitley,

in the brief descriptions and summaries of the individual studies covered by the report, we find that the overwhelming majority did not produce any statistically significant correlations between environmental tobacco smoke and any health hazard to non-smokers. In the two or three that did find a weak correlation, the reviewers pointed out very serious flaws in the methodology and research design. In short, the Surgeon General appears to have reached his own conclusions before the review was even begun and announced them despite the fact that the review and report do not substantiate them (Woodson 1988, Bates No. TI05470580-TI05470590, p. 7).

The industry claimed the report's assertion that a causal relationship exists between secondhand smoke exposure and lung cancer in nonsmokers was based on 13 epidemiologic studies of women whose husbands smoked, 11 of which reported risk estimates that were not statistically significant (Anonymous1992, Bates No. 2022888154/8194). In addition, the industry claimed that confounding factors such as diet, alcohol consumption, cooking and heating methods, occupation, physical activity, urbanization, socioeconomic class, and exposure to indoor or outdoor pollutants were not controlled for in the studies (Anonymous1987p, Bates No. 2501155652/5670; Anonymous1988g, Bates No. 2501155652/5670TI23660833).

Two publications, released concurrently with and immediately after the 1986 report, exemplify the industry's arguments regarding literature on exposure to secondhand smoke. A.W. Katzenstein, a long-time industry consultant and media team expert on exposure to secondhand smoke (Anonymous 1987k, Bates No. TI03571463) was tapped by TI to "[fill] the gap created by scientific consultants' reluctance to participate in media briefings" (Tobacco Institute 1987, Bates No. 506613129/3141, p. 2). He produced a pamphlet in early 1987 entitled "Environmental Tobacco Smoke (ETS) and the Risk of Lung Cancer - How Convincing is the Evidence?" which asserted that a number of scientific reviews had concluded the methodologies of the studies behind the 1986 report were flawed and the Surgeon General had failed to find any substantial evidence that smoking constitutes a health risk to the nonsmoker. He cited inaccurate classification of smokers and spouses in terms of their smoking habits, and the lack of studies done on actual measurement of total exposure to secondhand smoke (Katzenstein 1987, 87696716/6729).

TI's principal scientific disputes with the 1986 report were contained in the publication, *Tobacco Smoke and the Nonsmoker: Scientific Integrity at the Crossroads*. This detailed report reviewed the major exposure to secondhand smoke studies conducted up to that point in time and concluded that the scientists dedicated to proving tobacco smoke harms the nonsmoker were practicing "science by assumption, analogy and claimed plausibility" (Tobacco Institute 1986, Bates No. TIFL0054943/4999, p. 45). The industry publically asserted there were major problems with the studies due to misclassification, confounding variables, systematic bias, lack of adequate exposure data, and the use of questionnaires as in the seminal Hirayama Study (a Japanese cohort study showing increased lung cancer risk in nonsmoking wives of smokers). "Tobacco Smoke and the Nonsmoker" concluded, "ETS has never been shown scientifically to cause any adverse health effects in nonsmokers, much less a single death" (Tobacco Institute 1986, Bates No. TIFL0054943/4999, p. 56).

Tobacco industry executives from a number of countries came together in March 1987 to discuss solutions to the growing exposure to secondhand smoke issue. Minutes from that meeting demonstrate the industry was cognizant of the need for scientific research to support their refutation of the exposure to secondhand smoke studies: "Vigorous denial is not a satisfactory defensive strategy. All agreed that the

most significant ETS problem facing the Industry is the result of epidemiological studies which indicate a low risk related to ETS exposure. More industry sponsored research is needed to address this issue”

(Green 1987, Bates No. 505520873/0878, p. 6). In response to this need for research, a list of TI-ETS

Advisory Group research projects for 1987 were presented:

- Analysis of Hirayama on Smoking and ETS
- Asthmatic Responses to ETS Exposure
- Case-Control Study Evaluation
- Personal Nicotine Monitor
- Particulate Sampling
- Workplace Smoking Regulation: Before & After
- NYC Workplaces and Restaurants
- Independent Testing Laboratory (Green 1987, Bates No. 505520873/0878)

Minutes from a May 1987 TI-ETS Advisory Group meeting outlined another nine project proposals in addition to the ones already proceeding. A second case-control study and two studies directed at misclassification as well as a secondhand smoke exposure-dose proposal all appear to be intended to address the noted discrepancies in the evidence on exposure to secondhand smoke in the 1986 Surgeon General report (Anonymous1987a, Bates No. 2021001719). Documents indicate the industry anticipated the findings of this sponsored research would discredit studies cited in the 1986 report (Anonymous1987r, Bates No. 2024986962/6966) and put exposure to secondhand smoke in “proper perspective” (Anonymous1987o, Bates No. 2021592439/2440, p. 2).

Use of Scientific Consultants

In a 1987 telex marked “Urgent,” J. Bernard Robinson, Director of Corporate Affairs for Philip Morris Europe, concluded that “the most essential element of any successful ETS effort is effective recruitment/utilization of ‘whitecoats’ and ‘experts’” (Robinson 1987, Bates No. 2023541660, p. 1). Since the mid-1970s, the tobacco industry had maintained a steady practice of gathering groups of experts to discredit the research on exposure to secondhand smoke and to produce research leading to a conclusion that exposure to secondhand smoke was an “insignificant health risk” (Drope and Chapman 2001). This group of experts, also known as “scientific consultants,” “scientific witness teams,” “expert witness panels,” and “whitecoats” were often paid by the industry but vetted and organized through lawyers or

other third party buffers (Muggli et al. 2003) (Anonymous2004a, Bates No. RUPPJ102204ER) (Anonymous2004b, Bates No. SCHWARTZS102004ER). The industry claimed this use of lawyers as intermediaries functioned to “make them [the consultants] independent of possible hostile reactions by their scientific peers” (Anonymous1987h, Bates No. 2501152334/2337, p. 3), but Drope and Chapman described instead a strategic, calculated separation to hide the industry backing that would destroy the consultants’ credibility (Drope and Chapman 2001).

IAPAG was formed by TI in 1985 in direct response to previous Surgeon General’s reports mentioning secondhand smoke (Anonymous2004b, Bates No. SCHWARTZS102004ER). John Rupp, of Covington & Burling, described the composition of IAPAG as a number of university-affiliated scientists who undertook a variety of activities relating to secondhand smoke with support from TI. When asked whether IAPAG consultants were advocates for the tobacco industry, Rupp claimed that IAPAG’s sole purpose was to “provide a fair and objective assessment of the ETS science that existed at the particular time” and that, far from advocating the industry position, “had as its objective to fund better science than had been done – to produce answers that would gain wide respect within the international scientific community” (Anonymous2004a, Bates No. RUPPJ102204ER, p. 21 and p. 32).

In 2004 written testimony, Sorell Schwartz states IAPAG worked exclusively through Covington & Burling in scheduling appearances as scientific witnesses before governmental bodies. Contrary to Rupp’s characterization of IAPAG as an independent entity, Schwartz describes the Institute’s “expectation of our [IAPAG’s] unabashed advocacy” because they [TI] were “paying the bill” (Anonymous2004b, Bates No. SCHWARTZS102004ER, p. 16). He further described a gradual souring of the arrangement due to TI’s attempts to manage IAPAG’s appearances as public relations opportunities. The tobacco industry has a long and documented history of using scientific consultants to refute the science on secondhand smoke and to advocate for scientific conclusions more favorable to the industry (Muggli et al 2001; Drope and Chapman 2001; Muggli et al. 2003; Drope et al 2004). Documents show an extensive use of these experts in late 1986 and especially 1987 (the year of, and immediately following

the 1986 report's publication), which suggests a relationship between the release of the 1986 report and increased efforts in this area.

As a part of the scientific consultant program, TI issued coordinated dispatches for scientific witness appearances throughout the country. Documents show these consultants were sent by TI to testify before Congress and at state and local hearings regarding secondhand smoke (Sparber et al. 1987, Bates No. TI10141518-TI10141598). According to R.L. Mozingo, Vice President of TI, "They [the consultants] have briefed our staff, lobbyists, many of our allies, several key federal and state legislators and their staffs on the ETS/ventilation issues" (Mozingo 1987, Bates No. 506613378/3403, p. 6). The month the 1986 Surgeon General's report was released, Walter Woodson sent John Rupp and Nancy Balter, a scientific consultant from Georgetown University, to a series of lobbyist briefings on the report (Anonymous1986c, Bates No. TI22532206). Similarly, a January 1987 Bulletin asks consultants to come to the scheduled sessions with their list of bullet points on the 1986 report and the 1986 report of the National Research Council on Secondhand Smoke (Anonymous1987g, Bates No. TI03571606).

Grey Robertson, owner of the indoor air research company Air Conditioning & Ventilation Associates —Atlantic/Pacific (ACVA), and TI's "star runner on the indoor air quality track" (Kloepfer 1986, Bates No. TI04820839-TI04820850, p. 8) was a frequent industry consultant for indoor air studies. He had a full schedule of appearances concurrent with the 1986 report's release. According to the Scientific Witness Bulletin of December 1986, he was requested for testimony before the New York City Council, a series of media tours throughout the United States, and a brief to Congressional staffers on the "current status of ETS science" (Anonymous1986c, Bates No. TI22532206). Roger Mozingo affirmed "the Indoor Air Pollution Advisory Group (IAPAG) and ACVA team members are the most effective weapons our lobbyists can bring to the battle" (Mozingo 1987, Bates No. 506613378/3403, p. 5). Together, the scientific consultants in IAPAG and ACVA traveled the country to not only discredit the scientific studies on secondhand smoke, many of which had formed the basis for the 1986 report, but to carry the tobacco industry's message that the real health threat was poor indoor air quality (IAQ) and lack of sufficient ventilation.

Diverting the Issue

Despite the abundance of resources devoted to scientific review and coordination of scientific consultants, the tobacco industry was unable to say secondhand smoke was safe (Anonymous1987n, Bates No. 2083045915-2083045947). This inability to unequivocally negate the conclusions of the 1986 Surgeon General's report led industry executives to advocate for creating a diversion, a bigger monster (Anonymous1987n, Bates No. 2083045915-2083045947, p. 15), focused away from the minimal health effects of secondhand smoke and upon more pressing problems such as poor IAQ. With attention on air quality, the industry could paint secondhand smoke as just one of the many atmospheric contaminants, a minimal component that could be dealt with by proper ventilation. In addition to diverting the issue from health risks, the industry hoped that their intensive efforts towards IAQ problems would give a positive impression, the appearance of a constructive stance in looking for IAQ solutions (Anonymous1987j, Bates No. 2022934011/4024; Anonymous1987i, Bates No. 2021592387/2402). "The Surgeon General's report has increased the pressure against smoking in public places. Merely claiming the report's flawed is not likely to be accepted as credible from the tobacco industry... Advocating measures to truly improve air quality allows us to promote a positive result instead of just stopping a negative result" (Anonymous1987l, Bates No. 506651040/1041, p. 2).

Drope and colleagues have indicated public perception about smoking restrictions began to change after the 1986 Surgeon General's report concluded that separation of smokers and nonsmokers in confined places does not eliminate exposure and therefore disease risk. With the threat of smoking regulations on the horizon, the industry continued to dispute the conclusion that secondhand smoke was a health risk:

The recent Surgeon General's Report conclusion...that ETS is harmful to non-smokers may be expected to generate increasing legislative action to severely restrict smoking in public places. Restrictions may lead to much loss opportunity for smokers to enjoy a cigarette with significant volume impact. Objective - Change legislative intent from 'smoking restriction' to 'improving environmental air quality'" (Anonymous1987l, Bates No. 506651040/1041, p. 1).

This message relied heavily upon a network of IAQ consultants and independent research projects all working toward the ventilation solution (Drope et al. 2004; Muggli et al 2001). Samuel Chilcote at TI added a positive spin to the pressing problem, emphasizing the industry's ability to reorient the issue:

Through it all we see much opportunity. As we have seen with other controversies, we do have the ability to redefine issues, reduce the visibility of anti-smoking initiatives and increase our credibility in the process. Just as we would rather discuss tax reform than excises, we would prefer a debate on ventilation standards over one on ETS (Chilcote 1987a, Bates No. 92757093/7099, p. 2).

Scientific expert consultants used by the industry to promote doubt about the science of secondhand smoke were key to this shift towards the larger problem of IAQ.

A 1987 Scientific Witness Bulletin outlined the basic strategy for consultants to carry the IAQ message to legislative and regulatory bodies: the “idea is for attorney to set the ETS/restriction stage and for [the] IAPAGer to expand [the] issue to serious indoor air quality problems” (Anonymous1987q, Bates No. TI22321423, p. 2). The industry proceeded to take its IAQ/ventilation message to a wider public audience through reports, publications, public relations kits, and letters to the editor (Anonymous1987i, Bates No. 2021592387/2402; Foley 1987, Bates No. TI00652384/2385). For example, the 1987 TI report “Workplace Smoking Restrictions: Some Considerations” transitioned from questioning the science behind the 1986 Surgeon General’s report to invoking air quality studies conducted by ACVA Atlantic as proof of the real culprit—poor ventilation (Anonymous1987t, Bates No. 92349744/9752).

With a concerted focus on ventilation and IAQ problems, the industry hoped to dispel the concept, contained in the 1986 report’s third major conclusion, that simple separation of smokers and nonsmokers did not eliminate secondhand smoke exposure. If secondhand smoke was shown to be a minute component of IAQ and proper ventilation would allow smokers and nonsmokers to share the same air space without risk, there would be no need for smoke-free regulations. To this end, Drope and colleagues (2004) have described the tobacco industry’s relationship with Grey Robertson and ACVA Atlantic, noting Robertson quickly became the spokesperson for the message that indoor air pollution was the cause of disease, not secondhand smoke. ACVA Atlantic was already known as a company that diagnosed indoor air pollutants in public buildings (Anonymous1986a, Bates No. TI11393255) and TI

concentrated its efforts on ventilation solution appearances in the months following the 1986 report's release. Samuel Chilcote apprised TI Executive Committee of efforts to present IAQ and ventilation strategies, noting:

Ventilation experts, led by Gray Robertson, have made more than 30 legislative appearances this year -- a number equal to all appearances in 1986. Robertson also is approaching the end of the first year of a media tour, placing ETS in the proper context for reporters and talk show hosts throughout the country. In the first 11 months of the tour, he has visited 60 cities in 21 states, and spoken with representatives from more than 350 media organizations. This will continue as aggressively as possible (Chilcote 1987a, Bates No. 92757093/7099, p. 4).

To support their strategy on IAQ and ventilation, the tobacco industry executives created a formal research entity, The Center for Indoor Air Research (CIAR). According to the industry, the overall objective of CIAR was to establish "the premier funding organization for the highest quality research on IAQ with emphasis on the role of ETS" (Anonymous1987c, Bates No. 2023554529/4549, p. 7). With a proposed budget of \$4 million for 1988, the hope was that the media, legislators, and regulatory bodies would look upon CIAR as a trustworthy source of information on which to base their views on IAQ, especially secondhand smoke (Anonymous1987c, 2023554529/4549).

Contrary to the industry's public characterization of CIAR, document research shows that CIAR was created as a vehicle for industry-funded studies aimed at countering scientific findings supportive of regulation of secondhand smoke (Barnes and Bero 1996; Drope and Chapman 2001; Muggli et al 2001). Specifically, Barnes and Bero (1996) have investigated CIAR's use of peer-reviewed projects to enhance credibility and positive publicity while providing a separate review process for projects that would be used in legislative venues. Studies budgeted in 1988 under the newly formed CIAR included at least four projects headed by long-time industry consultants and frequent recipients of CTR Special Project funding (Anonymous1987e, Bates No. 85672196/2199): (1) S.R. DiNardi, (2) Oak Ridge National Laboratory, (3) S.B. Lehrer, and (4) E.L. Husting. Under CIAR's "Current Projects" section of the 1988 budget report, certain research grants, such as Husting's and DiNardi's projects (Anonymous1987c, Bates No. 2023554529/4549), appear to have been initiated several years earlier as CTR Special Projects (Anonymous1983, Bates No. 2048.21). The targeting of projects along with studies such as Husting's,

which seem to have been created specifically to discredit specific key secondhand smoke studies underlying the Surgeon General's and other agencies' reports (Anonymous1988a, Bates No. TIBU0034526), belies the independent scientific research role of CIAR (Barnes and Bero 1996).

Along with a need for third party scientific research on IAQ and secondhand smoke to sustain the industry message on ventilation, the creation of CIAR speaks to a perceived need for credibility in the scientific community; the industry recognized the credibility of the Surgeon General and the contrast with their lack of credibility (Anonymous1987n, 2083045915-2083045947). The documents show that CIAR funded many studies in the years 1989–1999 (Anonymous1999a, Bates No. 2073346992/7008) and a wide network of consultants was dispatched across the country to promote the ventilation solution. Although this diversion maintained controversy over the health effects of exposure to secondhand smoke, it did not buy the industry as much credibility as hoped and the ventilation strategy ultimately enjoyed limited success in North America (Drope et al. 2004).

Conclusion

Industry documents from early 1986–1988 clearly show a campaign by the tobacco industry to influence and discredit the 1986 Surgeon General report, “Health Consequences of Involuntary Smoking.” After the release of the report, the industry attempted to deflect the policy impact of its findings. Through the use of industry-directed scientific review, industry consultants, and a diversion to the “ventilation solution,” the tobacco industry hoped to avoid regulation aimed at smoke-free areas. But the preponderance of evidence on exposure to secondhand smoke and disease risk that came out of the Surgeon General's report, coupled with the convergence of the same conclusions from other agencies and public health organizations, gave momentum to the tobacco control movement that has enacted smoke-free legislation around the country and the world. In an exceptionally prescient statement, TI's Klopfer noted at an April 1986 meeting, “By Christmas I think we'll look back and know for sure that 1986 was the year environmental tobacco smoke came to Washington” (Klopfer 1986, Bates No. TI04820839-TI04820850, p. 5).

The Health Consequences of Smoking: Nicotine Addiction, 1988

Introduction

Tobacco industry documents provide insight into how the industry tried to influence the Surgeon General's 1988 report on nicotine addiction and how they worked to minimize the report's impact. The documents show that the industry conducted surveillance of the activities of the editors and authors to try and gain insight into, and possibly influence, the report's conclusions. The industry was especially careful in how it worded public criticism of the report because the Cipollone lawsuit was ongoing around the time that the 1988 report was published. Among other charges in the Cipollone case, the plaintiff charged that cigarettes were addictive, that cigarette manufactures were aware of this fact and that they failed to warn the plaintiff about it. The addiction charge in the lawsuit coming at the same time as the Surgeon General's report on nicotine addiction was released, created a sensitive situation for tobacco companies. Rose Cipollone's attorney, Mark Edell, had obtained and submitted into evidence 300,000 pages of previously secret, internal tobacco company documents showing that tobacco companies had known for decades, based on their own research, that nicotine was addictive and carcinogenic (Brandt 2007; Proctor 2011). Given the legal context, TI used arguments carefully developed by lawyers to specifically avoid addressing the quality of the Surgeon General's analysis of the existing research on the addictive properties of nicotine. Most of the industry's other efforts to minimize the impact of the 1988 report were covert and continued for about a decade after the report's publication. Tactics used in the wake of the report's publication included:

- 1) surveillance;
- 2) carefully managed public critique;
- 3) applying political pressure to the Surgeon General's office;
- 4) discrediting, refuting, and belittling the 1988 report through credible third party allies;
- 5) trying to turn the 1988 report into a marketing opportunity by developing low nicotine and denicotinized products to capitalize on the guilt and personal concern the Surgeon General's report generated among smokers; and

6) covertly funding an expert front group based outside the U.S. to publicly promote smoking as a free-choice and a beneficial stress-relief activity.

Surveillance

Paid industry consultants were involved with the 1988 Surgeon General's report. One was Leo Abood of the University of Rochester (New York) Medical Center's Department of Pharmacology. Abood, a long time Philip Morris consultant who worked on nicotine analogues, served as an expert reviewer for the 1988 Surgeon General's report and reported back to Philip Morris about the report (Davis 1987, Bates No. 2021576813/6814; Osdene 1988, Bates No. 2021546507). According to a confidential 1980 memo from Philip Morris scientist Jeffrey Seeman to Robert Seligman, Philip Morris's Vice President of Research and Development (R&D), Abood was selected as a scientific consultant to Philip Morris because, in addition to being a recognized specialist in nicotine, he was "acceptable from a 'political' perspective," "served on numerous influential committees," had "access to unpublished work," and "[had] many personal contacts that allows him to secure information of value to us" (Seeman 1980, Bates No. 1003289972-1003289973, p. 2). Another tobacco industry-affiliated scientist who participated in creating the 1988 report was David M. Warburton, Director of the Department of Human Psychopharmacology at the University of Reading in the United Kingdom. Warburton was a consultant for Philip Morris (Anonymous1987m, Bates No. 2001260131/0136) and United Kingdom-based Rothmans tobacco companies (Boyse 1989, Bates No. 300525457-300525460). Both Abood and Warburton disagreed with the report's conclusions about nicotine, but their ability to influence the 1988 report prior to its publication was limited, since contributors were not shown a final version of the 1988 report before its publication, nor were they informed about whether their contributions were going to be included in the final version (Anonymous1988b, Bates No. 300536171-300536174). Abood argued that nicotine was not a "truly addictive drug" because users failed to develop tolerance to or experience withdrawal symptoms from nicotine the same way users of barbiturates, amphetamines, opiates, and alcohol did (Abood 1987, Bates No. 2021576808/6810). Warburton argued that nicotine can produce beneficial effects in smokers and so should be considered a "resource for the individual." An October 30,

1987, memo from Myron Johnston, a marketing researcher at Philip Morris, to Ed Gee, a researcher in the product evaluation department, boasted that Philip Morris should be able to “hit the anti-smokers [with a] double whammy [because] the next report of the Surgeon General will have at least one article (Warburton’s) favorable to the industry” (Johnston 1987, Bates No. 2022226746/6748, p. 2). Neither Abood nor Warburton broke any rules or contracts with their dual associations. There were never any conflict-of-interest agreements in force between the Office on Smoking and Health and the scientists invited to work on the 1988 report. The Office on Smoking and Health maintains that their editorial process is strong enough to prevent any one individual from controlling the final content of reports (Norman 2012) (see Chapter 3).

Public Critique

The industry publicly criticized the 1988 report, but for legal and public relations reasons its strategy was to be cautious in commenting on the Surgeon General’s findings. Statements contesting the 1988 report could have affected smoking and health litigation. The industry needed to discredit the Surgeon General’s conclusion that smoking was addictive, to preserve their key argument against plaintiffs that smoking is a free choice, but they had to discredit it without drawing more credibility to the body of science supporting the conclusion. As a result, all arguments used publicly against the 1988 Surgeon General’s report were vetted by industry attorneys. John S. Johnston, an attorney for Philip Morris’ law firm Shook, Hardy and Bacon, in a November 1987 letter to TI, warned that the goal in arguing against the 1988 report was to avoid debating the Surgeon General’s research on its merits, since “this would only lend credibility to the research.” Johnston advised, “We can refute [the] concerns of the American public without directly assessing the underlying research” (Johnston 1987b, Bates No. TIMN0349640, p. 1). Johnston’s advice continued a decades-long tobacco industry strategy of avoiding direct discussion of the disease consequences of smoking (Zelter et al. 2000).

Johnston gave TI employees a list of approved talking points against the 1988 report. Accordingly, the industry’s arguments avoided discussing the scientific underpinnings of the conclusion that nicotine was addictive. Approved arguments included that the Surgeon General and his co-editors

were “politically motivated,” that “much of what is said, if not all of what is said regarding smoking as an addiction/dependence, could be said about coffee,” that the Surgeon General was “overreaching for a technical or dramatic claim about smoking,” and that by calling cigarette smoking an addiction, the Surgeon General “belittles the difficulties caused by the use of drugs like heroin, cocaine, and alcohol, as well as the extreme difficulty in giving up these drugs” (Johnston 1987a, Bates No. TIMN0349641/9642, p. 1). Johnston also proposed arguing that the 1988 report would cause “those in the American public . . . to distrust reports from the Surgeon General and the government as a whole” (Johnston 1987a, Bates No. TIMN0349641/9642, p. 1). TI used these talking points to generate editorials, op-eds, and articles in the popular and academic press with the purpose of rebutting the Surgeon General’s claims about addiction (Anonymous1988e, Bates No. TIDN0017954/7983; Anonymous1988f, Bates No. TIFL0406826/6859; Anderson 1989, Bates No. 2044053101), duplicating tactics TI used with the 1986 report on involuntary smoking (Mozingo 1986, Bates No. TIDN0026049-TIDN0026055; Americans for Nonsmokers’ Rights 2004).

Individual tobacco companies remained quiet about the 1988 report’s release, and instead spoke through their lobbying group, TI—an approach dating to when TI was created. TI at first made only a short public statement about the 1988 report using arguments approved by industry lawyers. A May 16, 1988 press release by Brennan Moran (later Brennan Dawson) of the Institute (dated the same day the report was released) said, “This report trivializes the serious drug problem faced by society. The claim that cigarette smoking is a drug addiction similar to cocaine or heroin use, or alcohol abuse, is unfortunate and unwarranted. . . .The claim that cigarette smoking causes physical dependence is simply an unproven attempt to find some way to differentiate smoking from other behaviors” (Moran 1988, Bates No. TIMN0019963EXHIBIT14, p. 1). TI continued refuting the idea in the media that nicotine in cigarettes was addictive. In a nationally-televised, 1989 interview on “Good Morning America,” Brennan Dawson said, “I can’t allow the claim that smoking is addictive to go unchallenged. The majority of people who smoke make that decision, they can quit if they want to. It’s a matter of willpower.” In 1989, TI published a brochure titled “The Anti-Smoking Campaign: Enough is Enough” in which the Institute denied that

smoking is addictive. The brochure stated, “The fact is that there is nothing about smoking, or about the nicotine in cigarettes, that would prevent smokers from quitting. . . . If a smoker wants to quit, it may take will power, but that’s all it takes” (Tobacco Institute 1989, Bates No. TIMN0307208-TIMN0307247, p. 34). In another televised interview in 1990 on “Larry King Live,” Dawson again reassured the public that nicotine was not addictive, saying “About 95% of those people have quit cold turkey. They’ve walked away from cigarettes and they’ve not gone through formal treatment centers or anything else. It’s not like alcoholism or drug abuse. It’s not an addiction. . . . There’s nothing about nicotine that prevents you from quitting...” Dawson continued insisting nicotine was not addictive on other well-known and nationally-broadcast news programs like “Face the Nation” and The MacNeil/Lehrer News Hour.

Although individual tobacco companies typically avoided making public statements against the 1988 report at that time, the report nevertheless changed the companies’ public discourse, since it forced them to address the addiction issue in public venues, like interviews, personal appearances, and direct questioning of company employees. One example of the altered discourse is contained in a 1989 draft of Philip Morris spokesperson’s manual, which instructed public relations and communications employees to “discredit the use of the word addiction in relation to tobacco use. . . . Do not refer to “addiction” . . . underline that smoking is a practice, a custom—at most, it can be termed a habit like many everyday acquired behaviors—but it has not been scientifically established to be an addiction. . . . Dramatize the misuse of the word addiction. . . . YOUR GOAL: To maintain that smokers are in control of their own behavior and are capable of making decisions of their own free will...” (Anonymous1989g, Bates No. 2501300300/0372, pp. 58–60). Arguments of this sort were of legal significance, given the industry’s (internal, private) admission that “ we cannot continue to defend smoking as a free choice, if this person was addicted.”

Application of Political Pressure

After the publication of the report, the industry’s long-time ally in the U.S. Senate, Jesse Helms (R-NC) (Anonymous1989e, Bates No. 507612373/2385), wrote to USDHHS Secretary Otis Bowen, suggesting that the release of the 1988 Surgeon General’s report was purposely timed to coincide with

jury deliberations in the Cipollone legal case. The Cipollone lawsuit included a charge that the plaintiff, Rose DiFrancesco Cipollone, was addicted to cigarettes and that cigarette makers failed to warn her of the addictiveness of their products. The judge in the Cipollone case allowed the Surgeon General's 1988 report on addiction to be admitted as evidence in the case (Brandt 2007). Helms wrote to Bowen that it would be "reprehensible" if the Surgeon General "used [his] office in an attempt to influence private litigation." Helms demanded Bowen officially investigate the timing of the 1988 report's release (Helms 1988, Bates No. 2024987665/7666, p. 1). Accordingly, Bowen investigated and wrote Helms that he found no plot by the Surgeon General to release the 1988 report during the Cipollone deliberations (Bowen 1988, 2023172138/2139). The jury in Cipollone eventually ruled in favor of the plaintiff and awarded \$400,000 in damages to Cipollone's husband—the first time ever that the tobacco companies were ordered to pay a judgment to a plaintiff (a verdict later overturned on appeal).

In response to recommendations contained in the Surgeon General's 1988 report, then Senator Bill Bradley (D-New Jersey) introduced an amendment to an existing piece of legislation that would add an additional rotating warning label to cigarettes that read, "WARNING: Smoking is addictive. Once you start, you may not be able to stop." Bradley's amendment also sought to expand federal alcohol and drug abuse programs to include tobacco and eliminate the tax deductibility of tobacco advertising—all policies opposed by tobacco companies (Senate 1989, Bates No. 507624193). On behalf of the tobacco industry, Senator Helms applied "intense and persistent effort" to defeat the amendment. He was ultimately successful in removing it (Anonymous 0000a, Bates No. TI36320834, p. 1). As of 2013 there has never been any kind of warning on cigarettes that nicotine is addictive.

Use of Third Parties to Discredit, Belittle and Refute the Surgeon General's Conclusions

TI paid Theodore H. Blau, Ph.D., a practicing clinical psychologist, and Stephen M. Raffle, M.D., Assistant Clinical Professor of Psychiatry at the University of California, San Francisco, to testify at a Congressional hearing on July 29, 1988, about the Surgeon General's conclusions regarding nicotine addiction. Using lawyer-approved arguments, Blau testified that calling cigarette smoking an addiction trivialized the problem of drug addiction in the United States, was misleading, potentially harmful to the

American public and the word addiction was used to describe everyday habits like “coffee drinking, jogging, love and cigarette smoking” (Blau 1988, Bates No. 515224522/4534, p. 3). Blau also applied the politically-motivated argument by saying “The escalation of the antismoking rhetoric by the Surgeon General in his latest report is similarly without medical or scientific foundation” (Anonymous1988h, Bates No. TIMN0025797/5806, p. 2). Blau’s testimony was preapproved by industry lawyers and Blau was paid for his appearance (Shook 1988, Bates No. 680303033-680303039). Raffle similarly used only lawyer-approved arguments, including “Clinically, cigarette smoking does not result in addiction-like behavior” because users don’t display intoxication or withdrawal symptoms requiring medical management (Raffle 1988, Bates No. 515224535/4548, p. 1). After the Congressional hearing, a TI memo boasted that Blau and Raffle had successfully “made the case that terming nicotine as an equal of cocaine and heroin addiction could be hazardous to the public health and dangerous to the successful conduct of the serious war on drugs” (Anonymous1988d, Bates No. TI12270242-TI12270372, p. 3). Like Blau, Raffle was paid for his testimony against the 1988 Surgeon General’s report. Neither Blau nor Raffle revealed to members of Congress or the public that the industry had paid for their testimony. It was later revealed in legal testimony in another lawsuit that Raffle had never published any peer-reviewed research on nicotine (Anonymous1999b, Bates No. RAFFLES032299PM).

Turning the 1988 Report into a Marketing Opportunity

U.S. tobacco companies tried to “capitalize on [the] ‘anti-nicotine’ environment” created by the 1988 Surgeon General’s report by marketing new cigarette brands designed to alleviate the “personal concern” and “guilt” the report generated in smokers (Katz 1989, Bates No. 507258482/8532; Freedman and Wall Street Journal 1989, Bates No. 523525822/5823; Anonymous1990b, Bates No. 507538870/8872). For example, the objective of Philip Morris’ “Project Art” (the internal name for the company’s “Merit NEXT” brand of cigarettes) was to “[Build] upon the awareness of the Surgeon General’s report and the authority of his office [to] launch a nicotine-extracted product with the potential of mainstream acceptance...[to] position the brand for broader appeal using current events to explain guilt-free flavor satisfaction...[to target] a smaller audience of concerned smokers, position the brand as

containing less of what may be perceived as a potentially harmful substance” (Anonymous1988e, Bates No. 2023087140/7150, p. 3). The brand name “NEXT” (spelled “N-EXT” in advertising copy), was an acronym for “nicotine extracted.” The ad copy assured smokers that Philip Morris’s denicotinization process was “all-natural” and similar to that used to decaffeinate coffee (Anonymous1989a, Katz 1989, Bates No. 507258482/8532; Freedman and Wall Street Journal 1989, Bates No. 2023350086).

Similarly, in response to the “significant and growing anti-nicotine propaganda” of the 1988 Surgeon General’s report, R.J. Reynolds (RJR) also sought to turn the heightened awareness about nicotine that the report generated among smokers into a marketing opportunity. RJR’s “Project LN” (for “low nicotine”), gave rise to “Vantage LN,” a low nicotine version of RJR’s Vantage brand cigarette. RJR created Vantage LN in direct response to the 1988 Surgeon General’s report. They introduced it to counter Merit Next, the lower nicotine entry from Philip Morris (Anonymous1988c, Bates No. 507350141/0144; Anonymous1989b, Bates No. 515445792-515445796; Anonymous1989d, 508841797/1813).

The 1988 report was also released around the time RJR was developing marketing plans for “Project Spa,” the R&D code name for RJR’s “Premier” brand cigarette. Spa was an effort to make a less “biologically-active” (disease-causing) smoking product. Spa did not actually burn tobacco, but instead just heated and aerosolized tobacco flavor. A Project Spa strategy document states, “RJR is working to address the ‘smoking and health controversy’ . . . and the Surgeon General request for low-yield product. . . . Creation of a cigarette to address concerns . . . Inform image leaders that RJR is taking a responsible, intelligent and realistic approach to dealing with the controversy” (Anonymous1989f, Bates No. 514206527/6533, pp. 2–3). But the 1988 report damaged the media climate for the debut of SPA/Premier by heightening awareness of addiction issues and stimulating speculation by public health advocates that Premier, which contained nicotine at that same level as “full flavor” cigarettes, was actually a “drug delivery system” (Anonymous1989c, Bates No. 506719977/9998, p. 10). In fact, it was demonstrated in the laboratory that Premier could be modified to deliver crack cocaine (Cone and Henningfield 1989). RJR felt the Surgeon General’s 1988 report “Created new allegation[s] that activists could use against Premier” (RJ Reynolds Tobacco Co 1989, Bates No. 508433816/3940, p. 26).

“Expert” Front Group: ARISE

Another significant tobacco industry effort to undermine the implications of the 1988 Surgeon General’s report was the 1990 creation of a global network of supposedly independent scientists to speak positively about the beneficial health effects of obtaining pleasure from legal substances. Industry documents show the industry created the group as a direct response to the Surgeon General’s 1988 report on addiction (Anonymous1993, Bates No. 2504092465/2482). The group, based in the United Kingdom and initially named Associates for Research in Substances of Enjoyment (ARISE), was comprised of academic sociologists, political scientists, anthropologists, psychologists, philosophers, and economists (Anonymous1990a, 300536407-300536408). ARISE’s strategy was to use credible experts supposedly unrelated to the tobacco industry to promote the view that smoking was not an addiction, but a pleasurable custom, and to convince people that smoking was an effective and relatively harmless stress-relief mechanism on a par with drinking coffee or shopping. In a blitz of highly publicized academic conferences, articles, books, and organized media events that took place over a period of approximately 11 years, ARISE members toured the world railing against health scares, casting public health efforts to reduce tobacco use as health fascism, and promoting the use of legal substances, including tobacco, for stress relief and relaxation, without ever revealing the industry’s role in funding and organizing the group. ARISE held conferences in countries around the world, including Europe, Asia, and the United States, in which the group’s members proclaimed that relaxing activities like drinking tea, shopping, eating chocolate, and smoking tobacco reduced cortisol levels in the body, and thus stimulated the body’s immune responses. ARISE drew media attention in at least 17 countries and generated hundreds of articles around the world espousing its views. Few if any articles about the group were critical. The lead spokesperson for ARISE was David Warburton, selected because of his longstanding relationship with tobacco companies and industry-friendly views that nicotine was not addictive and enhanced performance. At its inception in 1988, ARISE was funded solely by Rothmans and Philip Morris, but as the group’s media presence expanded and its influence grew, British American Tobacco, RJR and Gallaher tobacco companies all joined in and secretly started contributing to the group. By 1995,

ARISE's annual budget was more than three-quarters of a million U.S. dollars (\$773,750). The industry hid its involvement in ARISE by coordinating the group through a U.K. public relations firm, Fishburn Hedges, which in turn utilized additional PR firms based around Europe to manage and promote ARISE and its affairs. An ARISE Secretariat was also established to help manage the group's affairs and insulate the group from being connected back to the industry. In 1994, Rothmans persuaded Warburton to change ARISE's name to Associates for Research in the Science of Enjoyment (Smithson 1994, Bates No. 2025496472). ARISE's media tactics included generating favorable surveys and opinions; infusing these into the lay press and media through op-eds, articles, conferences, and press releases; publishing, writing, promoting, and distributing books to thought and opinion leaders; commissioning and placing favorable reviews of books written by ARISE associates; providing media training for book authors; and organizing media tours. These activities allowed the multinational tobacco companies to infuse the public with the view that "smoking is a controlled pleasure—it does not take control," a notion that directly contradicted the Surgeon General's 1988 report.

ARISE experts convened their last conference in Kyoto, Japan in 1999. The group was active for a period of about 11 years following the publication of the Surgeon General's 1988 report. It is not yet known precisely when or why ARISE was disbanded (Landman et al. 2008a).

Conclusion

Although multinational cigarette companies limited their direct public criticism of the Surgeon General's 1988 report, they worked assiduously behind the scenes to undermine the report's conclusions to confuse people around the world about the addictive nature of nicotine. They avoided debating the scientific validity of the Surgeon General's conclusions, and instead worked to shift attention to (1) the Surgeon General's claimed political motivation, (2) the lack of intoxication caused by nicotine, (3) the triviality of nicotine withdrawal, and (4) the triviality of the Surgeon General's overall conclusions about the addictive properties of nicotine. They also implemented an extensive, clandestine, global public relations effort during the decade following the publication of the 1988 report to try to neutralize public understanding about nicotine's addictiveness and portray smoking as a harmless, stress-reduction activity

on a par with shopping, eating chocolate, and drinking tea. The industry also attempted to turn the Surgeon General's report into a marketing opportunity by introducing low nicotine and denicotinized products, which ultimately did not take hold in the market.

Implications

The Surgeon General's office has regularly issued Reports summarizing the current science on tobacco and disease. In the face of these Reports, which would be highly damaging to virtually any other industry making an addicting and disease-causing product, the tobacco industry continues and remains profitable, not only because its product is addictive, but because it has the economic and political resources to deal effectively with the challenges of the three historic Surgeon General's Reports that are the subject of this report.

It wasn't until the disclosure of millions of previously-secret tobacco industry documents in 1998 that there was publically available evidence showing that the cigarette industry works behind the scenes to undermine common knowledge about the health hazards of cigarettes and tobacco smoke, and develops "countermeasures" against public health efforts to protect people from those hazards. There is now a significant body of academic literature based on tobacco industry documents describing the industry's duplicity and disregard for public health. The current body of research on the industry's wrongdoing also includes U.S. District Court Judge Gladys Kessler's exhaustive Final Findings of Fact in *U.S. vs. Philip Morris et al* (U.S. v. Philip Morris, 449 F.Supp. 2d 1 [D.D.C. 2006]).

All of this research indicates that the tobacco industry cannot rightly be considered an equal partner in public policy negotiations, yet legislators and government agencies continue to treat the industry as a stakeholder when formulating public health policies and regulations. For example, in 2009, Congress mandated the inclusion of non-voting tobacco industry representatives on the Food and Drug Administration's (FDA) Tobacco Products Scientific Advisory Committee (TPSAC).

By repeatedly working to undermine Surgeon Generals' Reports one could argue that the tobacco industry has acted seditiously. By maintaining that the Surgeon Generals' Reports are "politically motivated," running paid ads that encourage people to doubt the Surgeon General's conclusions, touring

the country making statements in the media that conflict with the Surgeon General's conclusions, and secretly funding "independent" groups whose sole purpose is to incite opposition to the Surgeon General's conclusions, the industry has encouraged distrust of a lawful governmental agency charged with protecting public health. Through these and other activities, the tobacco industry has actively encouraged citizens to view the Surgeon General's office -- a government institution -- with contempt and suspicion.

There is a remarkable consistency in how the industry worked to undermine the Surgeon Generals' Reports from 1964 to 1988. Strategies included trying to influence the Reports' findings, surreptitiously using consultants to advance industry positions, and impugning the validity of the Reports' scientific conclusions. Since that time the industry has developed new strategies to frustrate government attempts to reduce smoking. Foremost among these is filing lawsuits challenging the right of government to protect public health. The FDA has been a target of much of this litigation. Starting in 2009, when the FDA was given the authority to regulate cigarettes by Congress, the major US tobacco companies, with the exception of Philip Morris, charged that the Tobacco Control Act violated their free speech and due process rights and would take property without paying compensation. Also in 2009, Lorillard and RJ Reynolds challenged the composition of the FDA's Tobacco Products Scientific Advisory Committee, charging that several members had financial conflicts of interest. And in 2011 Lorillard and Reynolds were joined by three other tobacco companies in their legal challenge to the FDA's directive on graphic warning labels, citing the violation of free speech rights. Tying government regulation up in court has resulted in the FDA's cautious approach to implementing policies that will reduce smoking, requires the government to spend sizable amounts of money it could spend effectively on public health, and delays needed reforms. More concerning, however, is the consequent involvement of government attorneys in the formulation of policy and regulations whose advice may hinder decisions based on science.

Tobacco industry tactics applied to counteract the Surgeon Generals' Reports have paved the way for other embattled industries, in particular those affecting health, safety and the environment, to fight public health policies. Industries now using these tactics include the extractive energy industries, manufacturers of plastic bags, pesticides, junk foods and chemicals and biotech companies. All of these

have adopted strategies developed by the tobacco industry to shift debates onto friendlier ground, build political power, capture regulatory agencies, bolster credibility, deceive and reassure consumers and craft policy and regulations in their favor.

Learning how the tobacco industry has operated in the past, and assuming they will continue to operate the same way in the future, is the first step to reducing the tobacco industry's out-sized power and influence. Removing this influence is key to enacting effective and sensible public health policies that will benefit consumers. It will also encourage Americans to trust the U.S. Surgeon General's office, and other government agencies charged with protecting their health, safety and welfare. However, it is only when government agencies, such as the FDA and the Surgeon General's Office, find the political will to stand up to the tobacco industry that policies protecting public health can be enacted.

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