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*"Thesis" includes 'treatise', 'dissertation' and other similar productions.
TOBACCO INDUSTRY COMMUNICATION STRATEGIES
An Australian analysis of internal tobacco industry documents and other sources

Stacy M Carter

University of Sydney
2005
TABLE OF CONTENTS

ABSTRACT ...................................................................................................................... viii
PREFACE .......................................................................................................................... ix
Sources of information ................................................................................................ ix
Ethics approval .......................................................................................................... ix
Use made of the work of others and original work ...................................................... ix
Publication details ....................................................................................................... ix
Acronyms .................................................................................................................... xi
Acknowledgements .................................................................................................... xii

SECTION ONE: BACKGROUND AND CONTEXT

CHAPTER ONE INTRODUCTION AND ORIENTATION .................................................... 1

THE AREA OF STUDY AND ITS RELEVANCE .............................................................. 1

THE AUSTRALIAN TOBACCO MANUFACTURING AND MARKETING INDUSTRY ..... 4

The tobacco market in Australia .................................................................................. 4
Tobacco corporations in Australia ............................................................................... 4

STRUCTURE: THE SECTIONS OF THIS PHD AND HOW THEY FIT TOGETHER ...... 8

Section One ................................................................................................................ 8
Section Two ............................................................................................................... 8
Section Three .......................................................................................................... 10
Section Four .......................................................................................................... 13
Section Five .......................................................................................................... 14

REFERENCES .............................................................................................................. 15

CHAPTER TWO TRANSNATIONAL CORPORATIONS, COMMUNICATION AND
PUBLIC HEALTH .............................................................................................................. 18

BACKGROUND: UNDERSTANDING TRANSNATIONAL CORPORATIONS .............. 18

Defining the TNC ...................................................................................................... 18
Benefits of economic globalisation for TNCs ........................................................... 19
Globalisation, TNCs and nation-states .................................................................... 19
TNCs, public health and ideology .......................................................................... 22

TNC COMMUNICATION AND PUBLIC HEALTH ..................................................... 23

TNC marketing and public health ........................................................................... 23
TNC corporate affairs strategies and public health ............................................... 24

Campaigns overtly promoting TNC interests ...................................................... 24
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campaigns covertly promoting TNC interests</td>
<td>25</td>
</tr>
<tr>
<td>Third party strategy: speaking through other organisations</td>
<td>25</td>
</tr>
<tr>
<td>Funding research to create favourable information</td>
<td>25</td>
</tr>
<tr>
<td>Funding research to contribute to a corporation's brand</td>
<td>27</td>
</tr>
<tr>
<td>Covert communication with regulators and governments</td>
<td>27</td>
</tr>
<tr>
<td>DISCUSSION</td>
<td>28</td>
</tr>
<tr>
<td>REFERENCES</td>
<td>29</td>
</tr>
<tr>
<td>CHAPTER THREE METHODS USED IN THIS PHD</td>
<td>38</td>
</tr>
<tr>
<td>CHAPTERS NOT BASED ON TOBACCO DOCUMENTS</td>
<td>39</td>
</tr>
<tr>
<td>Chapter Two Corporations, globalization and public health</td>
<td>39</td>
</tr>
<tr>
<td>Chapter 13 A review of tobacco document research reporting, with reflections on the practice of tobacco document research</td>
<td>40</td>
</tr>
<tr>
<td>CHAPTERS BASED ON TOBACCO DOCUMENTS ONLY</td>
<td>42</td>
</tr>
<tr>
<td>Overall sources</td>
<td>42</td>
</tr>
<tr>
<td>Overall search strategies</td>
<td>43</td>
</tr>
<tr>
<td>Overall analysis strategies</td>
<td>45</td>
</tr>
<tr>
<td>Chapter Four Cooperation and control: the Tobacco Institute of Australia</td>
<td>47</td>
</tr>
<tr>
<td>Chapter Five Smoking, disease and obdurate denial: the Australian tobacco industry in the 1980s</td>
<td>47</td>
</tr>
<tr>
<td>Chapter Six The TIA's &quot;active smoking media statement&quot;</td>
<td>48</td>
</tr>
<tr>
<td>Chapter Seven From legitimate consumers to public relations pawns: the tobacco industry and young Australians</td>
<td>48</td>
</tr>
<tr>
<td>Chapter Eight Mongoven, Biscoe and Duchin: destroying tobacco control from the inside</td>
<td>49</td>
</tr>
<tr>
<td>CHAPTERS COMBINING INDUSTRY DOCUMENTS WITH OTHER SOURCES</td>
<td>49</td>
</tr>
<tr>
<td>Chapters Nine to Eleven</td>
<td>49</td>
</tr>
<tr>
<td>LIMITATIONS</td>
<td>53</td>
</tr>
<tr>
<td>REFERENCES</td>
<td>54</td>
</tr>
<tr>
<td>SECTION TWO: TOBACCO CORPORATE AFFAIRS</td>
<td></td>
</tr>
<tr>
<td>CHAPTER FOUR COOPERATION AND CONTROL: THE TOBACCO INSTITUTE OF AUSTRALIA</td>
<td>56</td>
</tr>
<tr>
<td>INTRODUCTION</td>
<td>56</td>
</tr>
<tr>
<td>RESULTS</td>
<td>57</td>
</tr>
<tr>
<td>Four seasons: an organizational history of the TIA</td>
<td>58</td>
</tr>
</tbody>
</table>
SECTION THREE: 21ST CENTURY MARKETING

CHAPTER NINE THE AUSTRALIAN CIGARETTE BRAND AS PRODUCT, PERSON AND SYMBOL

INTRODUCTION
- The "brand"... 157
- Brand image... 157
- Brand positioning... 158
- Brand equity... 158
- Brand identity... 159

RESULTS
- Brand loyalty... 160
- Regional variation... 160
- Local branding... 161
- Diversification within existing brand families... 161
- Premium, mainstream, supervalue... 162
- The premium segment... 164
- The mainstream segment... 168
- The supervalue segment... 172
- Brand failure: Marlboro in Australia... 175

DISCUSSION... 176

REFERENCES... 179

CHAPTER TEN GOING BELOW-THE-LINE: CREATING TRANSPORTABLE BRANDS FOR AUSTRALIA'S DARK MARKET

INTRODUCTION
- Good marketing integrates above-the-line and below-the-line strategies... 186
- The tobacco industry: a special kind of integrated marketing... 187
- The new BTL: guerrilla marketing... 188

RESULTS
- Resilience, substance, transportability: keys to a dark market cigarette brand... 188
- Transportable old brands instead of new brands... 189
ABSTRACT

This PhD uses a variety of sources, particularly internal tobacco industry documents and magazines for tobacco retailers, to examine and interpret the Australian tobacco industry's communication strategies over the last fifty years. The results focus on two areas.

The first area is issues management or corporate affairs management, that is, research and communication programs designed to improve the business environment of a corporation. Three chapters discuss two key corporate affairs issues: smoking and disease and youth smoking. My analysis suggests that the tobacco industry's public statements on these two issues have been carefully constructed to contradict their private knowledge, with important changes across time. Two chapters focus on two organizations that have assisted the corporate affairs departments of the tobacco industry, the Tobacco Institute of Australia (TIA) and Mongoven Biscoe and Duchin (MBD). I build a case that the TIA's activities were the direct responsibility of the cigarette companies operating in Australia, and that the TIA connected these companies to one another and to the international industry. I also outline the strategy used by MBD to defeat activists, and present evidence that MBD worked for the tobacco industry against initiatives including the Framework Convention on Tobacco Control.

The second area of focus is below-the-line marketing, that is, marketing that does not use the mass media. I argue that marketing in Australia cannot be understood without understanding brands and brand categories, and then demonstrate that the industry continued to actively market cigarette brands after Australian regulatory restrictions were introduced. Activities that involve retailers are considered in particular detail.

Two sets of conclusions are presented: conclusions in response to the results reported in the previous chapters, and a reflective chapter that addresses the practice of research based on tobacco industry documents and the directions it might take in future.
PREFACE

Sources of information
This PhD draws on the following sources, which will be further explained in Chapter Three:

1. the peer reviewed literature;
2. internal tobacco industry documents;
3. journals produced for retailers of tobacco products in Australia; and
4. opportunistic observation of marketing activities (such as pack alterations and retail displays).

Ethics approval
Ethics approval was not required as there were no human participants.

Use made of the work of others and original work
Fiona Byrne, information manager at the University of Sydney School of Public Health, provided invaluable assistance with managing accuracy of data about the documents and document referencing throughout the project, although the final responsibility for referencing remains mine. Fiona also created Table Three and Appendix Two. Simon Chapman contributed data for Chapter Five. The rest of that chapter is my own work. Chapter Two critically reviews and integrates published literature. The analysis and interpretation in this chapter are original, although based on the work of others, which is duly cited. Similarly, introductions to all chapters cite the work of others. The remainder of the work is wholly original.

Publication details
This thesis contains mostly published work. The University of Sydney’s Academic Board approved submission of published work as a thesis on August 14th 2002. The relevant policy is in Appendix One. Publication details are in Table One. Chapters Four and Five, and Seven to Eleven inclusive have been published in Tobacco Control, the leading journal
in the field of tobacco control with an impact factor of 3.164. Chapter 13 has been revised and resubmitted to *Tobacco Control*.

**TABLE ONE: PUBLICATION DETAILS**

<table>
<thead>
<tr>
<th>PUBLICATION STATUS</th>
<th>DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SECTION ONE: BACKGROUND AND CONTEXT</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter One Introduction and orientation</td>
<td>Thesis only</td>
</tr>
<tr>
<td>Chapter Two Transnational corporations and public health: tension in four domains</td>
<td>Thesis only</td>
</tr>
<tr>
<td>Chapter Three Methods used in this PhD</td>
<td>Thesis only</td>
</tr>
<tr>
<td><strong>SECTION TWO: TOBACCO CORPORATE AFFAIRS</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter Six The TIA’s &quot;active smoking media statement&quot;</td>
<td>Thesis only</td>
</tr>
<tr>
<td>Chapter Seven From legitimate consumers to public relations pawns: the tobacco industry and young Australians</td>
<td>Published Carter, SM. From legitimate consumers to public relations pawns: the tobacco industry and young Australians. <em>Tobacco Control</em> 2003;12:iii71-78.</td>
</tr>
<tr>
<td>Chapter Eight Mongoven, Biscoe and Duchin: destroying tobacco control from the inside</td>
<td>Published Carter, SM. Mongoven, Biscoe &amp; Duchin: destroying tobacco control activism from the inside. <em>Tobacco Control</em> 2002;11:1-7</td>
</tr>
</tbody>
</table>

* Note that while my primary supervisor, Prof Simon Chapman, is the editor of *Tobacco Control*, he was excluded from all editorial meetings and decisions regarding my work by the journal’s conflict of interest policy. In addition, the supplement in which many of these papers were published was independently guest edited by Prof Ruth Malone of the University of California.
TABLE ONE: PUBLICATION DETAILS CONTINUED

<table>
<thead>
<tr>
<th>PUBLICATION STATUS</th>
<th>DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SECTION THREE: 21ST CENTURY MARKETING</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter Nine The Australian cigarette brand as product, person and symbol</td>
<td>Published</td>
</tr>
<tr>
<td><strong>SECTION FOUR: CONCLUSIONS</strong></td>
<td></td>
</tr>
<tr>
<td>Chapter Twelve Conclusions</td>
<td>Thesis only</td>
</tr>
<tr>
<td>Chapter 13 Tobacco document research reporting: a review</td>
<td>Reviewed, revised and resubmitted</td>
</tr>
<tr>
<td><strong>SECTION FIVE: APPENDICES</strong></td>
<td></td>
</tr>
<tr>
<td>Appendix One to Nine</td>
<td>Thesis only</td>
</tr>
</tbody>
</table>

**Acronyms**

- AFCO: Australian Federation of Consumer Organizations
- ATL: Above-the-line
- BTL: Below-the-line
- BATA: British American Tobacco Australasia
- CEO: Chief Executive Officer
- ETS: Environmental Tobacco Smoke
- FCTC: Framework Convention on Tobacco Control
- ITA: Imperial Tobacco (Australia) Limited
- MBD: Mongoven Biscoe Duchin
- NMA: National Manufacturers' Organization
- PMI: Philip Morris International
- PML: Philip Morris (Australia) Limited
- POS: Point-of-sale (Point-of-purchase is used in some markets)
- TIA: Tobacco Institute of Australia
- TDR: Tobacco Document Research
- TNC: Transnational Corporation
- USTI: United States of America Tobacco Institute
Acknowledgements

This PhD was supported by an Australian Postgraduate Award. Grants from the National Health and Medical Research Council (2001–2003 #153857) and the US National Institutes of Health (2001–2005 # R01 CA87110-01A1) to Simon Chapman provided vital infrastructure.

Many colleagues assisted with this work. Simon Chapman, my primary supervisor, and Michelle Scollo, my associate supervisor, provided many helpful comments on acres of drafts despite having frantic lives. Simon had the original project concept and helped navigate. Michelle was particularly instrumental in assisting me to bring the published work together. Reviewers, anonymous and otherwise, helped me polish and sometimes completely transform papers for publication. Patient and generous colleagues, especially Claire Hooker, Mary Assunta, Fiona Byrne and Jenny Knight, read, challenged, discussed and encouraged. Without Fiona managing the information systems and metadata for the project the team would have imploded. Many other friends in the School of Public Health and beyond supported, provided outlets, and cared enough to get it.

With love and gratitude this PhD is given to my family, Carson Andreas and Scout, although I’m not at all sure they want it.
SECTION ONE: BACKGROUND AND CONTEXT
CHAPTER ONE INTRODUCTION AND ORIENTATION

THE AREA OF STUDY AND ITS RELEVANCE

Smoking tobacco, particularly in the form of cigarettes, is widely acknowledged as one of the most serious causes of ill health. The World Health Organization estimates the current death toll to be approximately 5 million per annum, predicted to rise to 10 million by 2020. Although the diseases creating this death toll, such as cancer, heart disease and chronic obstructive pulmonary disease, are non-communicable, tobacco-related illness has been analysed in the classic public health manner as a communicable disease, naming tobacco as a causative agent and the tobacco industry as its vector. It is widely recognised that comprehensive tobacco control, combining elements such as high taxation, encouragement and support for current smokers to quit, limitations on where people can smoke, and total restrictions on marketing, can reduce the personal and social costs of smoking. If the tobacco industry is considered a vector, advocacy against the industry becomes another important element of comprehensive tobacco control. Tobacco control advocacy has a long history, including in Australia, but for decades relied on careful observation, conjecture and leaks, a situation that changed dramatically a decade ago, with the release of tens of millions of pages of tobacco industry documents through US litigation. The release of these documents provided evidence of the internal communications, plans, and in some instances actions of the tobacco industry, and spawned what could be seen as a new discipline, Tobacco Document Research (TDR). Because of the transnational nature of the industry, many of these documents referred to or emanated from countries other than the USA, providing opportunities to gather information about international as well as American markets.

This PhD focuses on industry documents relevant to the Australian market. In some instances these documents are combined with other sources, and in some instances chapters have an international focus either to provide context or because an international issue is highly relevant to Australia. The focus is tobacco industry communication strategies. As detailed in later chapters, Australia is a highly restricted marketing environment for tobacco—what the tobacco industry refers to as a "dark market".
Prohibitions on brand-related communication began in 1976 and reached a watershed in the Federal Tobacco Advertising Prohibition Act (TAP Act) 1992. On a background of existing television, radio and cinema bans, the TAP Act prohibited print advertising, domestic sponsorships and advertising outdoors, with some notable exceptions, particularly "internationally significant" sponsorships, which will cease in 2006. Although this may suggest that a study of Australian tobacco industry communications is a futile project, the reverse is true. Decades of constraint have stimulated Australian innovation in communication, making Australia a centre for the development of novel and creative responses to regulatory opposition and thus an important subject of study. To quote the former Marketing Director of British American Tobacco Australasia, David Crow, speaking here in a 2001 presentation to the company's Australian staff:

"Australia is one of the darkest markets in the world... it probably is the darkest, I mean ourselves and Canada fight every month for who's got the darkest conditions to do tobacco manufacturing and marketing. And one of the things we can offer the world is what we do best, which is how to work, maximize, proactively drive our market position in a market that's completely dark. Now that takes a different skillset... a different type of learning. We need to export that... we know we have a lot of expatriates who come down to Australia for learning... they can come here and learn these techniques and take them back to Europe or Latin America or to the United States or to Africa... But the other thing that is really good for us is that we are also a huge net exporter of Australian talent... [there are] about 30 or 40 people currently off-shore... We do things really differently here than most other BAT organizations." 

Thus a study of Australia can provide both early warning of what is likely to come in other markets, and insights into the thinking of an industry under pressure. A current Australian study can also encourage thinking outside of traditional parameters of what constitutes tobacco industry communication. While past analyses have tended to focus on the obvious, that is, brand sponsorship of events and advertising in media such as TV, radio, print and billboards, known as above-the-line marketing, there is increasing recognition of the importance of other forms of communication: "below-the-line" marketing and the discipline variously referred to as "corporate affairs management", "issues management" or
“public relations”. “Below-the-line” marketing aims to build brands and increase sales using methods other than mass media, which go far beyond sponsorship to shape retail, entertainment and other ordinary environments to subtly promote a particular brand, often seemingly by accident. Corporate affairs management is defined by Philip Morris International (PMI) as follows:

“In the Corporate Affairs department, we promote and support PMI’s business objectives by developing strategies that respond to, and shape, the most favourable political, regulatory and social environment for our future. We use analysis and research to better understand societal expectations and trends. We listen and respond to public expectations, speak out on issues which affect our company and products, engage in a dialogue with critics and allies alike, and build and maintain a distinct corporate image. We design and implement government and media relations and develop internal communications and public relations programmes.”

The work collected here focuses on below-the-line marketing and corporate affairs management, providing direction for future international laws restricting tobacco industry communications, and evidence of loopholes that need to be closed in Australian regulation. There are sometimes similarities between these Australian findings and previous North American and European work, but many of the findings are unique to Australia. Australian research is important because local cigarette manufacturers and marketers tend to distance themselves from accusations made against the international industry. In addition, most northern hemisphere research has focused on domestic (rather than international) brands and strategies, and has often used the documents of companies with a negligible presence in Australia, such as Lorillard and R.J.Reynolds. Domestic northern hemisphere cigarette companies, operating in different legislative and constitutional environments, often have policies very different from those of their “International” subsidiaries or partners in other countries.
THE AUSTRALIAN TOBACCO MANUFACTURING AND MARKETING INDUSTRY

The tobacco market in Australia

As in most developed country markets, tobacco manufacturing and marketing has seen enormous commercial and political change in Australia since it commenced in NSW in 1818. By the late 1800s, tobacco was a boom industry serving a growing local market from two main Australian leaf-growing areas in the states of Queensland and Victoria. Australian-grown tobacco supplied 40% of the local market at the turn of the century, and 90% in the 1920s, by which time cigarettes had become fashionable. Accordingly, the political climate was highly favourable to industry, particularly tobacco growing. In 1936 the Commonwealth established the first Local Leaf Content Scheme, permitting manufacturers to pay less duty on imports if they used a stipulated percentage of Australian leaf. By the 1950s, when Australia's political climate emphasised post-war development, the tobacco industry was seen as a source of growth and profit and was supported bilaterally by politicians, with Deputy Prime Ministers and Prime Ministers officially opening new cigarette manufacturing factories. In 1965 a Tobacco Industry Stabilization Plan was introduced, and marketing boards established in the three tobacco growing states, Queensland, New South Wales and Victoria, with quotas established for individual growers, and the following year a statutory requirement of 50% Australian leaf in both cigarettes and tobacco was established. Australian leaf production peaked in 1969-70, and has been declining since, steeply in recent years due to changes including decreasing consumption, government schemes to buy out growers, removal of the local leaf content scheme and the Tobacco Industry Stabilization Plan, reduced local manufacturing, and the globalization of tobacco buying. Industry-government partnerships in tobacco research and development are also being wound down.

Tobacco corporations in Australia

The corporate history of tobacco in Australia is a complex web of local and international companies. Over the course of the 20th Century, the Australian market has hosted greenfields foreign direct investment, mergers, acquisitions, and export and distribution partnerships involving several international tobacco groups. The Australian cigarette
market has always been linked to UK and US companies, but recent trends have been towards greater transnational control of the local industry. Initially Australian-based public companies trading on the Australian Stock Exchange dominated the market, selling both local and international brands, holding joint venture agreements or affiliate status with UK and US-based companies. Over the decades these local companies have been acquired by international holding companies and have stopped trading in Australia, greatly diminishing their local reporting responsibilities. The transnational parents have diversified broadly whilst increasingly insulating non-tobacco interests from tobacco interests.

The history of the companies currently dominating the Australian market begins in 1901-2, when a number of important shifts occurred in the international tobacco market. In the UK, local tobacco firms were challenged by the aggressive entrepreneurialism of The American Tobacco Company. The company's managers arrived in London intending to take over UK tobacco businesses. In response UK companies formed The Imperial Tobacco Company (of Great Britain and Ireland), Ltd., a firm large enough to protect their interests in the UK market. It remained a domestic UK concern for decades, and does not figure in Australian tobacco history until its expansionist phase at the end of the twentieth century.18

Meanwhile British-American Tobacco Company Ltd., an export company, was formed in the UK in 1902 as a kind of truce between UK firms and The American Tobacco Company. It became an international giant, and has the longest history in Australia. Its partner for decades in the Australian market was WD&HO Wills, local affiliate of one of the UK companies involved in both of the mergers described above. In Australia, WD&HO Wills and two Scot companies merged, a holding company known as British Tobacco Company (Australia) was formed, and its manufacturing subsidiary, WD&HO Wills, began making cigarettes at Raleigh Park in Sydney.15 In 1977, British Tobacco Company (Australia) became AMATIL Ltd., retaining WD&HO Wills as its tobacco manufacturing subsidiary and diversifying widely into areas such as packaging, food and beverages, including being the licensee for Coca Cola in Australia.16

In 1954 Philip Morris (Australia) Ltd. was set up in Moorabbin, Victoria as the first major affiliate of the newly formed Philip Morris Overseas Division, renamed Philip Morris International in 1961.15,19 Also in 1954, Rothmans Holdings Ltd., a subsidiary of Rothmans International Investments PLC (UK), formed a joint venture agreement with the US
In 2001 British American Tobacco Australasia Ltd. stopped trading on the Australian Stock Exchange, following acquisition of all minority shares by subsidiaries of BAT PLC,\textsuperscript{16} which is listed on the London Stock Exchange,\textsuperscript{21} ending the era of tobacco companies with Australian interests trading on the Australian Stock Exchange. In 2003 Philip Morris Companies Inc. changed its name to Altria Group Inc., remaining the parent for the group’s widely diversified food, beverage and packaging interests.

The Australian market is now dominated by three companies: British American Tobacco Australasia Ltd. (BATA) and Philip Morris (Australia) Ltd. (PML), both manufacturers, and Imperial Tobacco Australia Ltd. (ITA), which imports international brands and contracts BATA for manufacturing.\textsuperscript{17} BATA is the market leader in the Asia-Pacific region. BATA employs over 1,200 staff in Australia, where it has approximately a 44% market share. Its market share is even greater in nearby nations — approximating 80% in both New Zealand and the Pacific Islands.\textsuperscript{16} BATA reportedly manufactures 18,000 million cigarettes per year in the region.\textsuperscript{16} Various companies originally from the Wills or Rothmans groups, now bearing variants of the British American Tobacco name, continue to be registered with the Australian Securities and Investments Commission (ASIC).\textsuperscript{22} Their head offices and manufacturing facilities are in Eastgardens, NSW. PML also remains an Australian Public Company registered with ASIC. It is a manufacturer, and its subsidiaries include Statewide Tobacco Services Ltd., a telesales/distribution company, Philip Morris Ltd. and Philip Morris (New Zealand) Ltd. Australia is also the base for information technology and systems support for PMI companies throughout the Asia-Pacific region.\textsuperscript{11} PMI companies currently employ approximately 860 people in Australia, with head office and manufacturing in Moorabbin, Victoria.\textsuperscript{11} ITA, having no manufacturing facilities, is an import, distribution and marketing company. ITA is registered with ASIC as an Australian public company. Detailed information about its performance is especially difficult to access because reporting is mostly aggregated into a “rest of the world” category that includes all non-Western-European countries.\textsuperscript{18}
**STRUCTURE: THE SECTIONS OF THIS PHD AND HOW THEY FIT TOGETHER**

**Section One**
This first section provides background and context, and was written last. In addition to this introductory chapter, it contains a chapter providing some general background to the issue of the communication strategies of transnational corporations (TNCs), and a description of my methods.

Chapter Two is entitled Transnational corporations, communication and public health. It defines TNCs and discusses their significance in relation to economic globalization and the role of nation-states. It then outlines some of the communication strategies that TNCs use: both overt campaigns, marketing products or arguing industries’ interests, and covert strategies, such as funding research to create favourable information or build the corporate brand, communicating with regulators and other decision makers to influence the operating environment, and third party strategy, in which another apparently independent person or organization speaks on an industry’s behalf. This material provides a context for the strategies discussed in later chapters.

Chapter Three describes my research process.

**Section Two**
Section Two contains results pertaining to tobacco corporate affairs. It contains five chapters, all of which drew solely on tobacco documents. Papers on which these chapters are based have been cited in the literature.

Chapter Four focuses on the Tobacco Institute of Australia (TIA), an organization that managed corporate affairs for the Australian tobacco industry for three decades of the 20th Century. The chapter examines the work of the TIA and the connections it facilitated: links between local manufacturers; links through individuals who played multiple roles; links to international tobacco organizations; legal links; and information links. The TIA was an important voice for the industry from the 1970s to the late 1990s, when the corporate
affairs function was reabsorbed into the corporations themselves. The paper on which this chapter was based was the first to set out a case that the TIA’s conduct was the responsibility of local and international companies and their counsel, an important finding which means that, in legal or regulatory decisions, the TIA’s activities can be considered to be the activities of the manufacturers.

Chapter Five reports on corporate affairs programs around what the Australian industry referred to as the "primary issue", the relationship between smoking and disease. It focuses on the 1980s for two reasons: because by the 1980s the epidemiological evidence was considered incontrovertible, and because the 1980s were a particularly active and aggressive period in the corporate affairs history of the industry, led by the TIA. The historic conduct of the tobacco industry in seeking to mislead and reassure smokers about smoking and disease had been documented for the USA, Germany and the UK prior to the paper on which this chapter is based being published, but this paper was the first to explicitly make a case that the Australian tobacco industry understood the evidence on smoking and disease but deliberately misinformed Australians, describing internal research on smoking and disease, knowledge of external research, and misinformation supplied to employees, boards, decision makers and the general public, including Australian smokers. Smokers now aged approximately 25 and over would have been recipients of the campaigns described in this chapter.

Chapter Six builds on the history of the TIA in Chapter Four and the case made in Chapter Five that in the 1980s the industry was aware of the disease effects of smoking but chose to mislead consumers. This chapter explores in detail a specific problem facing Australian tobacco corporations in the early 1990s: the need for a coherent position on smoking and disease, acceptable to all the companies and consistent with their own positions, which could be used to respond to the media on the issue. Chapter Six presents the details of the struggle over this statement to illustrate the cooperative, legal and fastidious nature of managing corporate communication in the Australian tobacco industry.

Chapter Seven discusses another key corporate affairs issue: teen smoking. Youth smoking is important because most smokers start as teenagers and because of questions about the ability of teenagers to make informed choices. The paper on which this chapter was based was the first to outline the industry’s Australian corporate affairs programs on
the issue. The chapter proposes an evolution from unproblematic association of teenagers and smoking in the 1960s, through the industry's aggressive attacks and denials in the 1980s, to the 1990s, when industry became newly compliant with "societal expectations" and youth became a dominant bargaining issue in the industry's communication strategy. It also discusses the industry's current policy: to simultaneously blame others for underage smoking, frame the industry as socially responsible via voluntary marketing codes, youth access programs, and school education, and market actively to young adults, defined as 18 to 24 year olds. It argues the need to prohibit both marketing and youth smoking prevention funded by the industry, and reframe the youth issue in tobacco control debates.

Chapter Eight is the least "Australian" chapter in this PhD. It provides another detailed example, this time of an agency that specialised in managing corporate issues and worked for transnational tobacco corporations, including on one of the most significant global events in tobacco control, the Framework Convention on Tobacco Control (FCTC). It is relevant to Australia in that Australia has both participated in and ratified, and thus will be bound by, the FCTC, and in that there is evidence that the organization, Mongoven Biscoe and Duchin (MBD), has worked in this region. The paper on which this chapter is based was internationally important at the time of publication. The fourth Intergovernmental Negotiating Body meeting on the FCTC was held in Geneva from March 18th to 24th 2002. The paper was released online on Monday 18th March 2002, in time for the meeting, and thus attracted international attention. International press coverage, press releases and examples of its use by Non Government Organizations are included in Appendix Three E.

Section Three

Section Three focuses on brand marketing activities in Australia. This section combined tobacco documents with other sources, particularly advertising and journalism from retail trade journals. Several of the papers on which these chapters are based were used in and appended to a 2003 formal joint submission from health Non Government Organizations, including Cancer Council Australia and the National Heart Foundation, to the Federal Government’s review of the Tobacco Advertising Prohibition Act 1992. They have been used as source material by Australian journalists with an interest in marketing, cited in the peer-reviewed literature,28-31 and cited and quoted in the Australian National Tobacco
Strategy 2004-2009, the instrument through which Australian jurisdictions have promised to eliminate remaining tobacco promotion.32

Chapter Nine focuses on Australian brands. Research about marketing can take one or both of two possible paths. The first path is to examine the activities used to communicate, such as sponsoring events, or designing packaging, or advertising on billboards. The second possible path is to focus on brand identity – that is, to examine the more abstract vision, purpose and meaning for a brand that should drive all executions promoting that brand.33 Brand identity and marketing activities should of course be inextricable, but tobacco control research on cigarette marketing has tended to focus on marketing activities rather than brand identity. Research that does consider brand frequently reports important but thin information, such as brand awareness, preference, recall or campaign exposure in particular age groups, patterns of advertising buy for particular brands, or the marketing mix, that is, which strategies are used to promote a brand and in what combination. Only a few papers have considered cigarette brand identity in any depth (see for example 34-37).

The paper on which Chapter Nine is based was the first in tobacco control to draw on the professional brand management literature, particularly the work of David Aaker, contrasting brand elements such as brand identity (overriding brand vision), brand positioning (brand identity elements communicated to the consumer), brand image (consumers’ brand perceptions) and brand equity (financial value).33 It was also the first to provide a typography of the brands operating across an entire market, how they differ, and the functions they serve. It concluded that the equity of competing cigarette brands is mutually reinforcing, and has been damaged by tobacco control, that the industry sees Australian smokers as less brand loyal than smokers in other markets, that the Australian market is strongly oriented to “low tar”, that brand image and identity are frequently congruent, even when marketing is restricted, and that brand image is generally more positive for a smoker’s own brand. The paper also detailed the three categories of Australian cigarette brand: premium, mainstream, and supervalue, and suggested that tobacco control messages may benefit from being tailored to the very different expectations and needs of the smokers of each brand category.

Chapter Ten and Eleven focus on marketing activities. Chapter Ten deals in detail with the industry’s below-the-line marketing strategies, excluding retail. It concludes that although
marketing restrictions reduced the industry's effectiveness and efficiency, Australian tobacco companies continued market their products, and planned carefully to circumvent regulation well in advance. In preparation for bans, they chose and strengthened existing brands to enable their continued success in a dark market and prepared the consumer for bans by increasing their spending on below-the-line activities. After bans new brand launches stopped: instead key existing brands were strengthened via alterations to the product, line extensions, and stretching loopholes in the legislation as far as possible. This work proposes that, consistent with the general trend towards integrated marketing in all sectors, several activities have been used in combination to promote cigarette brands, including guerrilla marketing, advertising in imported international magazines, altering the pack, sponsorships, brand stretching, event promotions, lifestyle premiums, and the development of corporate websites. Because Australian marketing was highly restricted well before many other major markets, the paper on which this chapter was based provided unique insights, from the companies' own documents, regarding their responses to marketing restrictions.

Chapter Eleven describes the importance of retail marketing in a restrictive environment. It demonstrates that the industry strove to make the retail environment the primary communication vehicle for building cigarette brands as other forms of marketing were restricted, conceding to limits only incrementally and under duress, and at times continuing to break the law. It describes allocation of money to support and motivate retailers, including financial and practical assistance with point of sale marketing and alliance building, building brands through advertising in retail magazines and competition between Philip Morris and British American Tobacco to control distribution of all products to retailers, placing themselves at the heart of retail business, particularly in the convenience sector. Although the paper on which this chapter is based was not the first to focus on retail marketing, which has attracted some international attention in the last decade, it is one of only a small number that have used the documents to understand retail marketing from the perspective of industry, and is the only one to have done so in such detail.
Section Four

Section Four contains two chapters, which present two kinds of conclusions.

Chapter Twelve draws conclusions from the results presented in the previous three sections.

Chapter 13 is a different kind of reflective chapter. It is methodological, reviewing existing TDR including my own, and discussing possible future forms for TDR. As described in Chapter 13, when this project commenced TDR was a young discipline. The first small body of documents was analysed in 1994, the main body of documents was not released until 1998, and it was not until 2000 that TDR papers began to be published regularly. My PhD commenced the following year. During the time that I completed my PhD, the existing body of TDR approached the documents in a straightforward way: researchers essentially found the documents and summarised what they said. Much of my work in this PhD, particularly my early work, duly followed that paradigm. However, after some years of reading in qualitative research, epistemology and sociology, my own retrospective reflexivity led me to analyse existing TDR to attempt to make some of its traditions transparent, both for my own learning and to suggest possible future trends for TDR.

Chapter 13 describes the various ways that tobacco documents were used in the peer reviewed health literature to the end of 2004. Papers with tobacco documents as the main focus varied enormously in their reporting of methods. I observed five kinds of information about methods in these papers: purpose, sources, searching, analysis and limitations. Details of these categories are summarised in Chapter 13 to provide a guide for other authors. I also propose the existence of a descriptive mainstream, which was initially typical but appeared to be decreasing across time, and suggest that TDR researchers positioned themselves on a continuum that I labelled from “researcher as conduit” to “researcher as constructor.” Certain reporting practices, consistent with researcher as constructor, appeared to clump together and to be used particularly by experienced researchers in later years: more complex purposes, more diverse sources, and more detail of searching and analysis. Tobacco document researchers did not typically site themselves in a disciplinary context, although they used words from three major traditions – interpretive, positivist and historical – to describe their analysis. To conclude Chapter 13
and the thesis, I explore these three traditions to suggest possible disciplinary homes for tobacco document research, and finally present a model for planning and evaluating tobacco document research based on my review of others' work and my experience of writing this PhD.

Section Five

Section Five contains nine appendices.

Appendix One contains the policy mentioned above.

Appendix Two provides information about search strings used and the number of documents returned.

Appendix Three contains the published papers and copies of some of the press releases and media coverage relevant to the paper in Chapter Eight.

Appendices Four to Nine form an audit trail. The audit trail concept is discussed in Chapter 13. The appendices are presented in tables containing my working notes on the raw data, comprising mostly summaries and descriptions, and thus are not of publication standard. For appendices containing notes on documents cited in the chapters, I have listed documents in the order in which they were cited. For supplementary material, I have listed documents in chronological order. Each table of document summaries provides:

1. a document number;
2. a document date in the format YYYYMMDD; and
3. document information, commencing with the title as given in the document metadata, and if relevant quotes or a summary.

Each page of a tobacco industry document has a unique BATES numbers assigned to it. Most are purely numerical, some have an alphabetical prefix. In the appendices, the working document numbers used in the University of Sydney Tobacco Document System are used to identify documents rather than citing documents in endnotes. These numbers consist of the BATES number, with an alphabetical prefix added to numbers without such a prefix, allowing easy identification of the document's source. The exception is documents found in secondary collections: for these documents a world wide web address is given. Prefixes and their meaning are in Table Two. The documents noted in the appendices are the original documents found during the research process – in some instances documents were traced to more stable sources for citation in the finished work. Square brackets in
Appendices Four to Nine enclose my early interpretations. The same documents are repeated in some tables, to enable the reader to check all of the sources for one paper in order in one place.

**TABLE TWO: ALPHABETICAL PREFIXES TO BATES NUMBERS**

<table>
<thead>
<tr>
<th>Prefix</th>
<th>Original source</th>
</tr>
</thead>
<tbody>
<tr>
<td>PM</td>
<td><a href="http://www.pmdocs.com-bin/rsasearch.asp">http://www.pmdocs.com-bin/rsasearch.asp</a>;</td>
</tr>
<tr>
<td>LOR</td>
<td><a href="http://www.lorillarddocs.com/cgi-bin/rsasearch.asp">http://www.lorillarddocs.com/cgi-bin/rsasearch.asp</a></td>
</tr>
<tr>
<td>RJR</td>
<td><a href="http://www.rjrtdocs.com/rjrtdocs/index.wmt?tab=home">http://www.rjrtdocs.com/rjrtdocs/index.wmt?tab=home</a></td>
</tr>
<tr>
<td>TIFL; TIMN; TI; TIDN; THKP</td>
<td><a href="http://www.tobaccoinstitute.com/cgi-bin/Rsasearch.asp">http://www.tobaccoinstitute.com/cgi-bin/Rsasearch.asp</a></td>
</tr>
<tr>
<td>CTR</td>
<td><a href="http://www">http://www</a> ctr-usa.org/ctr/index.wmt?tab=home</td>
</tr>
</tbody>
</table>

Actual documents can be retrieved from the University of Sydney collection or the University of California San Francisco Legacy Tobacco Documents Library collection using BATES numbers.

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CHAPTER TWO TRANSNATIONAL CORPORATIONS, COMMUNICATION AND PUBLIC HEALTH

This chapter provides a broader context for the material presented in subsequent chapters. The tobacco industry is profoundly transnational, and is thus better understood in the context of other transnational corporations (TNCs) and their general relevance to public health. The chapter reviews literature about what TNCs are, why they are an important global force, and the way in which TNCs communicate and use information. It examines two kinds of communication. Firstly, TNC marketing practices. Secondly their corporate affairs practices, which attempt to influence the political process, regulation, litigation and public opinion by communicating both overtly and covertly.

BACKGROUND: UNDERSTANDING TRANSNATIONAL CORPORATIONS

Defining the TNC

A TNC can be defined as "a firm that has the power to coordinate and control operations in more than one country, even if it does not own them." Corporations have become increasingly transnational since the 1970s, due largely to foreign direct investment (FDI), that is, overseas investment made with the intention of gaining control of the investee, most often between high-income countries. The most common forms of FDI are mergers and acquisitions, which are increasingly prevalent in health-related industries, including food and pharmaceuticals. Many TNCs are also developing cooperative relationships with local companies in international markets, particularly in high-risk low-income-country markets. Through linkages and FDI, and enabled by technological development and deregulation, particularly in communications and transportation, TNCs have become hubs of networks that produce goods, services, information and persuasion, which sometimes means that industries traditionally considered benign by public health, such as drug and food manufacturers, and industries such as cigarette manufacturers work together within a
Because these networks now dominate global production, TNCs are considered the “primary movers and shapers” and “lynchpins” of the global economy.

Benefits of economic globalisation for TNCs

The rise of TNCs is closely related to globalisation, a vast and contested phenomenon with economic, political, military, migratory, cultural and ecological facets, which has been discussed in detail in general texts and in books focused on public health. The most important facet of globalisation for this chapter is the economic. Its closely entwined major players include the World Trade Organisation (WTO), which is dominated by G7/G8 countries, which are home to most TNCs. The legal foundation of the WTO is a set of multilateral trade agreements, which have been strongly influenced by TNCs and have benefited TNCs. These agreements can regulate many issues relevant to public health, including labeling, packaging, manufacturing standards, patents, brands, intellectual property arising from health research, quarantine, importation bans and service provision.

Although these agreements create substantial and intractable change, they are rarely evaluated in terms of their health impacts, positive or negative. Trade concerns overwhelm health concerns in global policy because of the pre-eminent enforcement mechanisms of the WTO, the influence of powerful nation-states, and the shared values of the transnational managers at the helm of most global regulators, nation-states and TNCs. At the WTO dispute resolution is highly technical, legal, closed, and run by trade experts, providing little opportunity for a public health perspective to challenge the WTO’s assumptions, and the US has actively opposed attempts to give the World Health Organisation (WHO) a role in monitoring international trade agreements. The WTO also fails to recognise fundamental tenets of public health such as the precautionary principle, making its own judgments based on current evidence. It is thus extremely difficult for a nation-state to control a practice that it suspects carries a future, but as yet unproven, risk.

Globalisation, TNCs and nation-states

Much writing in public health assumes an idealised sovereign nation-state, governing within national borders. Within the literature on global policy, however, there is vigorous
debate regarding the influence of globalisation on the role and power of the nation-state. Many contend that certain national governments are becoming less autonomous, as people, information and money flow increasingly freely over borders, international problems such as global warming and the illicit drug trade are shared by many nations, and actors including dominant states, international governance systems such as the WTO, and TNCs become relatively more powerful.

These writers argue that smaller, less powerful nation-states are being constrained by the larger, more powerful nation-states that are home to most TNCs. TNCs and their home-states benefit from one another's power. TNCs generally concentrate their resources at home, and in turn home governments provide local protection and international intervention. The US government, for example, provides tariffs, subsidies, tax breaks and bail-outs for its TNCs at home, and simultaneously has forced the EU to accept hormone-treated beef, the U.N. to shrink its Center on Transnational Corporations, which monitored FDI in developing countries, and low and middle income countries to recognise drug patents well beyond what is required by international agreements. With regard to tobacco, the U.S. Trade Representative has investigated allegedly unfair tobacco trading practices in the Japanese, Thai, South Korean and Taiwanese markets under Section 301 of the US Trade Act of 1974, eventually forcing all four countries into bilateral trade agreements that introduced US cigarette brands into their markets. The Thai case went to GATT arbitration in 1990, where a GATT panel found that Thai import restrictions on cigarettes were contrary to provisions of the GATT. Although the Thai government was forced to allow imports, their right to ban all cigarette marketing was upheld, on the condition that it be applied equally to domestic and imported product.

It is also argued that power is moving from some nation-states to international governance systems. When a nation-state signs a multilateral trade agreement for example, it voluntarily sacrifices some of its own sovereignty in exchange for the hope of increased trading prospects, giving the WTO the right to impose sanctions on it if it fails to adhere to the agreement. WTO bodies can thus constrain national regulation. This has again been played out with regard to tobacco trade, with other industry document research providing evidence of TNCs threatening governments with a WTO challenge to deter legislative action. Because WTO agreements are far-reaching, they have the potential
to influence many aspects of cigarette trade and thus tobacco control, including the ability of governments to constrain imports and control packaging and labeling.

Nation-state power may be further eroded because of TNCs' financial power. TNCs benefited disproportionately from financial deregulation and the resulting mobility of capital. Being responsible for the majority of the world's exports, TNCs incorporate parts of national economies within their own firm boundaries, conducting up to 70% of trade intra-firm. This enables transfer pricing, where transactions between TNC subsidiaries in different countries are priced so as to minimise their tax bill: high prices in low taxing nation-states, low prices in high taxing states.\textsuperscript{1,5,28} Traditionally industry-government relationships have been characterised by mutual need: governments needing firms to generate material wealth, jobs, technology and expertise, and firms needing governments to provide physical and social infrastructure. However in the current global climate, it is argued that this traditional state/firm relationship is becoming increasingly unbalanced, particularly in low and middle-income countries.\textsuperscript{1,18}

These patterns of global trade liberalisation have helped revitalise the long-term growth prospects of the tobacco industry. Markets that were previously monopolised have been made increasingly competitive with the entry of TNCs, reducing prices and increasing marketing activity.\textsuperscript{26} Tobacco TNCs have established joint ventures with, or acquired, domestic companies (sometimes from states themselves during privatisation), have invested in or acquired production and distribution facilities, particularly in Central and Eastern Europe and Asia, and have expanded their business in Latin America and Africa.\textsuperscript{26} Trade liberalisation has been shown to increase not only US TNC's market share, but overall consumption of cigarettes, particularly in low and middle income countries (LMICs).\textsuperscript{25,29,30} Empirical evidence on the impact of privatization of state run monopolies on tobacco control is mixed, with some informative case studies completed. In Poland, for example, pressure from the public health community led to greater regulation of the tobacco market when the Polish government extract itself from a monopoly position,\textsuperscript{26} while tobacco document research has revealed BAT's plans to acquire a monopoly position as the Moldavian market privatised, and to subsequently drive up consumption through marketing.\textsuperscript{30}
TNCs, public health and ideology

The tension between TNCs and public health is at least in part ideological. Ideology is inescapable when discussing TNCs: indeed some writers define the economic globalisation that has so benefited TNCs as an ideological force. The current unfettered form of economic globalisation is based on a belief that "open markets, nondiscrimination and competition in international trade are good for everyone," linked to the ascendance of neo-liberal or neo-conservative ideology, summarised by George as follows: "individual freedom is the ultimate social ideal; governmental power, while necessary, must be limited and decentralised. Interventionism is baneful and dangerous. Economic freedom, that is, capitalism, is an indispensable condition for political liberty." The basic ethos of contemporary public health, that democratic governments have a responsibly to create environments that promote health and equity, does not sit comfortably with neo-liberal ideology. This tension is reflected in analyses of the equity effects of economic globalisation.

There are advocates of unfettered economic globalisation in the health literature, who broadly argue that "because gross national product per capita correlates so strongly with national health status, we can conclude that, in general, openness to trade improves national health status." Strongly neo-liberal commentators consider inequity to be unproblematic or even desirable. Many more moderate commentators, including those within UN organisations and other groups that devise policy to promote global development, contend that inequity is inevitably temporary and justified by average benefit. In contrast, critics contend that unfettered economic globalisation is creating complex and entrenched inequity in areas including health. They challenge the evidence of benefit as being too strongly aggregated to be informative. They demonstrate that winners and losers are emerging within and between countries, and that global economic policy is benefiting an already-privileged minority and either failing to improve or worsening the wealth and health of much of the world's population, to different degrees under different political regimes. Tobacco is an excellent example of the health inequity engendered by TNCs, as smoking increasingly becomes a problem of the poor in developed countries, and of poor countries where regulation is weak and the industry is aggressively seeking markets. It would be false and simplistic to claim that TNCs were the sole cause of these inequities. However some research suggests that they are one of
several causes, and many writers argue that TNCs and their corporate managers are the main beneficiaries of global change, and that their wins have occurred, in part, at the expense of the losers.

The legal responsibility and prime concern of corporations is maximising profit to shareholders, a legitimate motivation that can have indirect social benefits. However when corporate networks are primarily motivated by profit, and where neo-liberalism is their core ideology, health outcomes often suffer. Many TNCs undermine health and equity to achieve their financial ends. For example, for-profit health maintenance organisations worldwide are reorienting previously public and universal health systems towards individual responsibility for health costs, assisted by global policy actors such as the US government, World Bank and WTO, as well as national governments, despite evidence that this shift disadvantages populations and increases inequity. In low-income countries, many TNCs engage in conduct that would be prohibited in their home states, expand their markets for health-damaging products, including tobacco, and use dangerous workplace practices.

TNC COMMUNICATION AND PUBLIC HEALTH

On the background of this economic power and ideological position, the communication strategies used by TNCs are an important tool for maintaining and increasing profits by increasing sales and improving operating environments.

TNC marketing and public health

Health-related TNCs are producers of substantial and well-funded marketing campaigns designed to initiate, sustain and increase product sales. The budgets for TNC marketing campaigns are often well beyond the scope of what is available for communication by citizens, non-government organisations or most governments. This is relevant because TNC marketing is often in direct opposition to publicly funded health messages. The bulk of the global consumer marketing budget is spent on products such as soft drinks, processed foods, cigarettes and alcoholic beverages, in direct contravention of public health objectives, and corporate communications frequently contravene public health principles.
Tobacco document research has described tobacco industry communication, product design and pricing strategies designed to maximize sales by targeting specific groups of consumers differentiated by age, ethnicity and gender, including teenagers. US-based transnational Health Maintenance Organisations have exaggerated their treatment outcomes and the quality of care they provide, while discouraging people with higher health care costs from joining. Major food TNCs have violated the WHO’s longstanding International Code of Marketing of Breastmilk Substitutes. Soft drink, alcoholic beverage and fast food TNCs have aggressively targeted children, in some cases at school. Pharmaceutical TNCs, particularly when direct-to-consumer advertising is proscribed, nurture personal and organisational links with doctors – several recent criminal and civil lawsuits have led to convictions or settlements regarding these marketing activities. Doctors typically deny any influence, despite evidence demonstrating that physicians dependent on pharmaceutical industry information prescribe less appropriately. Despite all of this, tobacco, food, pharmaceutical, health care and health insurance TNCs repeatedly claim that their global marketing is valuable, ethical, factual and scrupulously compliant with voluntary codes of practice, that their industries are heavily regulated, and that criticism of their marketing practices is inaccurate, emotive and methodologically flawed. In fact food and beverage TNCs protect their advertising to children with rhetoric reminiscent of that used by tobacco TNCs in Australia in the 1970s and 1980s, protesting that there is “no proof” that advertising influences children, that parents are to blame, and freedom is at stake.

TNC corporate affairs strategies and public health

Campaigns overtly promoting TNC interests

The tobacco industry’s overt corporate affairs campaigns have been widely discussed. One of the best-known examples of the tobacco industry attempting to overtly influence public opinion is the 1954 “Frank Statement to Cigarette Smokers.” The “Frank Statement” advertisement was placed in 448 US newspapers in January 1954, and was jointly funded by Philip Morris, RJ Reynolds, Brown & Williamson, Lorillard, and American Tobacco. It suggested smoking did not cause cancer, stated that cigarettes were safe, and promised that the industry would finance research to investigate the allegations being made about the impact of smoking on health. Similar campaigns have been jointly run by other groups
of corporations: by pharmaceutical corporations to promote their products as money-
saving, a dubious contention by the food industry to undermine longstanding nutritional
advice, by the lead industry to reassure consumers that lead was safe, by the plastics
industry to suppress information about the health risks of polyvinyl chloride, and by the
alcoholic beverage industry to undermine mainstream science about alcohol
consumption.

Campaigns covertly promoting TNC interests

Third party strategy: speaking through other organisations

One common strategy that TNCs use to communicate is known as “third party strategy”. Third party strategy is a means of communicating indirectly to create the appearance of community support – corporations develop financial or other relationships with organisations that will subsequently promote their position to the public and decision makers. The tobacco industry has used third parties such as smokers groups, sporting associations, hotels associations and leadership groups in minority communities as spokespeople to improve the industry’s image and business environment. Pressure has been put on non-compliant groups, and tobacco control groups infiltrated. Similarly food, agriculture and chemical TNCs have infiltrated activist groups to undermine their campaigns. Fast food TNCs fund sporting associations, and alcoholic beverage and pharmaceutical “Medical communications” is a growing transnational industry, creating unpaid advertising in the form of “medical news”, often without the knowledge of reporters and producers, and promoting drugs via strategies such as ghostwriting journal articles to be published under the names of “independent” academic experts. Food, pharmaceutical and for-profit health care and insurance TNCs also influence the professional and general press through advertising expenditure, a longstanding tobacco industry strategy. TNCs fund consumer advocacy groups that express opinions consistent with the TNCs' position while angrily denying any influence from their funders.

Funding research to create favourable information

There is good evidence that research funded by any industry tends to draw conclusions favourable to that industry, despite the common protestations of industry-funded experts.
that they are not influenced in any way. In general these effects are not considered to be
the product of deliberate bias or scientific fraud, but rather of a subtle shift in the framing
and purpose of research. Corporate funding is thought to move academic research
away from its traditional idealised goals of "universalism, communalism, disinterestedness
and organised skepticism" and towards research that defines, proscribes and studies
problems in a manner consistent with TNCs' views and commercial imperatives. Much corporate-funded university-based research also involves corporate control of the
resulting intellectual property to control potential effects on profits, enshrined via local
contracts and in global law via the Agreement on Trade-Related Aspects of Intellectual
Property Rights (TRIPS).

For decades the tobacco industry paid for research that provided information favourable to
the industry. After some early unsuccessful attempts by industry researchers to promote
the development of a safer cigarette, the tobacco industry engaged in extensive scientific
research programs, internally and through relationships with university-based scientists
and physicians, producing results that could be used to ward off litigation. The resulting
intellectual property was controlled by lawyers and suppressed by agreement between
companies when unfavourable, the scientific literature was seeded with pro-tobacco
information and opposing work was undermined. Corporations in other health-related industries have similarly controlled potentially damaging information by threatening
and silencing researchers and seriously imped ing their careers, interrupting trials, insisting
on membership of research committees, instructing universities to represent the
corporation's interests to government, stealing and misrepresenting results, and delaying
or blocking publication to secure patent rights or improve sales, sometimes assisted by the
legal department of the researcher's university. This counters the traditional
public health assumption that health knowledge belongs in the public domain, instead
making the results of some basic science research and some information about risk the
property of TNCs. This seriously influences what can be communicated to consumers and
health care providers on important issues.

Although some universities have rejected tobacco industry funding, the sobering evidence
regarding the effects of corporate funding on research culture in general has produced few
results. Corporate funding is framed as inevitable, conflicts of interest as manageable,
and opposing researchers as non-compliant and troublesome.
Funding research to contribute to a corporations' brand

Funding research in a very public manner can become an important part of a corporations' brand. In the 20th Century this was seen in the tobacco, asbestos, lead and vinyl industries, which all cooperatively promoted their "commitment" to research to maintain a positive image for their industries and products. Although the pharmaceutical sector, unlike the tobacco, asbestos, lead and vinyl industries, has done much productive research and has created many useful products, pharmaceutical corporations similarly promote research as the essence of their corporate brands in a misleading manner. Pharmaceutical companies, alone or through their industry associations, overstate their expenditure on research, overstate the innovativeness of their research, use intellectual property law to protect profits to the detriment of population health, fail to adhere to usual research standards, and use research dollars inequitably. Despite these realities, "research innovation" is generally central to the corporate brands of pharmaceutical TNCs.

Covert communication with regulators and governments

In the context of the global power shifts described earlier, it is increasingly easy for TNCs based in rich nations to influence governments and regulators. Tobacco, pharmaceutical, oil, food, asbestos and biotechnology companies, strengthened by mergers and acquisitions, work globally to institute trade agreements, self-regulatory schemes and international standards that forestall or override punitive national legislation. They push open markets in LMICs supported by international trade law, often against the will of national governments. They also work at local levels to influence national governments and regulators.

At national and intra-national level, regulators are dogged by conflicts of interest. A "revolving door" of personnel exists between many regulators and the corporations they regulate, and regulators internationally have become dependent on fees paid by corporations to "speed up" applications and are thus forced to work ever-faster. These challenges, along with corporate funding of "independent experts" and the threat of industry litigation, can bias regulatory decisions toward corporate interests. In Australia it is allegedly difficult for drug regulators to find experts independent of the pharmaceutical industry for their evaluation panels. In the US, the chemicals industry has been less stringently regulated at times when the incumbent head of the regulatory body had a
personal relationship with the industry. Drugs have been approved by regulators, sometimes assisted by experts with undisclosed financial ties to the drug’s manufacturer, and sometimes on the basis of data later demonstrated to have been biased. In some cases severe, even fatal side-effects have led to subsequent withdrawal of approval.

One key regulatory issue is the pricing of essential goods and services. High prices worsen population health by limiting treatment to those people who can afford it, accentuating the distinction between profit motives and public health motives. Prices that most people can't afford can still be good for business, as a larger margin per unit can result in higher profits than selling more units at a lower price. The health impacts of drug pricing policies can be of similar orders of magnitude to those caused by tobacco. While smoking causes approximately 5 million preventable deaths per year globally, mostly in later life, AIDS alone causes between 2.5 and 3.5 million deaths annually, 500,000 of them in children, mostly in low and middle income countries, and mostly preventable via existing drug therapy. TNCs’ drug pricing targets are met through patent monopolies for branded drugs, preventing competition from cheaper generic equivalents. Using the courts, TRIPS and trade sanctions, the pharmaceutical industry and/or the US government have applied pressure to the governments of countries including South Africa, Argentina, the Philippines and Pakistan to keep prices high. Policies that ensure equitable access to treatment, in keeping with public health principles, set dangerous regulatory precedents for TNCs and their profits. For this reason, in countries with policies that control drug prices including Bangladesh and Australia, TRIPS, lobbying and legal action have been used to attack and weaken effective regulatory processes.

DISCUSSION

This review suggests that the tobacco industry is not alone in its use of overt and covert communication strategies to influence the public and decision makers: many TNCs appear to act similarly. TNCs, benefited by economic globalisation and the ideology they share with the governments of many wealthy countries, collaborate within their industries, and as a broader group when faced by a joint threat, to communicate in ways that promote their interests. What is unique about the tobacco industry is the degree to which researchers can access the corporate affairs strategies behind such communication. The internal
documents of tobacco TNCs, such as those that this PhD is based on, have provided a unique opportunity to better understand corporate communication, and to support those who wish to counter its impact. The following chapters provide some insights into the thinking, the effort and the intention behind the corporate communication of the tobacco industry. Given the parallels between tobacco and other TNCs suggested by the literature, subsequent chapters may also suggest fruitful areas for investigation of other industries.

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CHAPTER THREE METHODS USED IN THIS PHD

This chapter will explain the methods I used to find and analyse the material presented in this PhD. The chapters collected here are the product of my evolving research practice over the course of four years.

This work adopts the TDR tradition of analysing the documents from an implicit position of advocate for tobacco control, rather than using a theoretically informed analysis strategy as would be found in other disciplines such as sociology. As discussed in Chapter 13, TDR to date has taken a particular, pragmatic path that I have labelled the “descriptive mainstream”, in which the task of the researcher is essentially to find as many documents as possible and then summarise what they say. Throughout this project I was working primarily in the descriptive mainstream, the mode most common in the journals publishing TDR. Particularly in my earlier work, and most strongly in its original published form, I was less epistemologically reflexive, speaking from an unexamined position of “spokesperson for truth and justice” commonly inhabited by advocates. This can be seen especially clearly in Chapters Eight and Four.

However over time I began to develop more of an understanding of the need for transparency. The first paper to reflect the need for readers to be able to evaluate the source material for themselves was the published paper on which Chapter Five is based, which was linked to the material now in Appendix Five, published on the Internet. I have extended this strategy to all chapters of this PhD, putting supporting material in appendices. In later work I also began working more interpretively, and began combining sources, seen in the combination of industry documents with both journalism and advertisements from retailer magazines in Section Three.

Although this work did not adopt a formal analytic approach, I have explained below the practical strategies used for analysing the material gathered.
CHAPTERS NOT BASED ON TOBACCO DOCUMENTS

Chapter Two Corporations, globalization and public health

This chapter drew solely on the published literature to investigate what was known about the communication strategies of transnational corporations. I read more than 700 papers while writing it over the course of almost 12 months. Initial sources were identified by searching Medline for English language publications, using corporat$ (where $ is a wildcard); globalis$; and globaliz$ as non-indexed keywords, and by searching the index term "industry", and its sub-terms chemical industry, drug industry, food industry, health care sector and tobacco industry. The collection of material was greatly expanded by reading references listed in the papers returned by initial search and via recommendations by colleagues. Extensive notes were taken in Endnote, and records indexed by the non-mutually-exclusive keywords in the list below, developed while reading the papers.

1. advocacy: public health advocacy activities
2. agriculture: agriculture industry
3. alcohol: alcohol industry
4. asbestos: asbestos industry
5. cars: car industry
6. chemical: chemical industry
7. conflict of interest: papers discussing any aspect of conflict of interest
8. corporations: papers focused on the economic and political aspects of transnational corporations
9. financing: information about global economy and pricing
10. food: food industry
11. guns: munitions industry
12. insurance: health insurance industry
13. law: legal aspects of transnational corporations
14. lead: lead industry
15. marketing: anything to do with marketing activities
16. medical devices: medical device industry
17. oil: oil industry
18. pharmaceuticals: pharmaceutical industry
19. PR: public relations campaigns, corporate affairs management
I was primarily interested in the way in which transnational corporations, including tobacco corporations, communicated. I kept any papers that addressed this question. The resulting material was integrated via an interpretive thematic analysis.¹ I organised material under themes that I observed in the readings, and iteratively summarised, integrated and interpreted the information until metathemes emerged, with the writing process and the analysis process being inextricably linked.

Chapter 13 A review of tobacco document research reporting, with reflections on the practice of tobacco document research

In Chapter 13 I sought to answer several questions. First: what reporting traditions have been established in TDR published in the peer-reviewed health literature? Then: What can the reporting traditions of TDR tell us about the nature of TDR? How do they relate to other research reporting traditions? What directions do they suggest for the future? To answer the first question I searched Medline, most recently on February 1st 2005, from 1995² to December 2004. I used the MESH term “Tobacco Industry”, introduced in 1997, to search years 1997 to 2004, and combined the MESH terms “industry” and “tobacco” with the “AND” operator for 1995 and 1996, limiting the search to English language papers. I kept reports, reviews and research papers that cited at least one industry document, excluding other formats and secondary citations, for example, to newspaper articles reporting on documents. The original Medline search produced 1766 papers; 173 met the selection criteria.

I imported the 173 papers into N*Vivo as separate documents. They were divided into two sets, which I will henceforth refer to as A-Papers and B-Papers. A-Papers were research papers that were primarily concerned with finding, analysing and reporting on tobacco industry documents. There were 110 A-Papers. B-Papers were papers that cited a small number of documents but were not primarily reports of tobacco document research. There were 63 B-Papers. B-Papers included, for example, analytic reviews of the literature and reports of survey research: what B-Papers had in common was that they cited a small number of tobacco documents (generally one or two). In most cases the distinction
between A-Papers and B-Papers was straightforward. Marginal decisions were not based purely on the percentage of references that were tobacco documents: I also took into account whether documents were acknowledged as a source and how they were used.

A-Paper or B-Paper status, author details, publishing journal and publication year information was encoded using N*Vivo's attributes function. Authors were divided into groups according to the number of papers they had published. Four groups of authors were identified: those that had published only one or two TDR papers (1–2 paper authors); those that had published between three and six papers (3–6 paper authors); those that had published between seven and eleven papers (7–11 paper authors) and a small group of authors who had published over 20 papers (20+ paper authors). No authors had published between 12 and 19 papers. Many authors of few TDR papers were widely published in their own fields, including in tobacco control. Papers were divided into groups according to the number of papers published by their most published author. This ascribed reporting responsibility to the most experienced TDR author on a paper, although this may not always be the case in practice.

Each paper was read repeatedly, a set of codes was developed from the five types of information about methods found in the papers, then these codes were organised under five metathemes:

1. the purpose of each study (when explicitly stated);
2. data sources;
3. search strategies (online or in depositories);
4. analysis strategies; and
5. limitations of the research.

All papers were re-coded iteratively as the coding system evolved.

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c To be clear: search strategies were the ways in which authors found documents, analogous to the data collection or survey administration phase of epidemiological research; analysis strategies were the ways in which authors made sense of the documents, analogous to the statistical analysis or modelling phase of an epidemiological study.
I took an interpretivist or constructivist approach – that is, I sought to make meaning from
the content of the papers and thus form an understanding of TDR, recognising that I would
do this differently from other researchers. To emphasise the interpretative nature of the
work I used first person where possible, a common constructivist practice that
acknowledges authors’ active creation of research. My coding was guided by my
research questions, my own experience as one of the five most published TDR authors
internationally, the experience gained from completing this PhD and my interest in
epistemology, that is, the study of theories of knowledge or ways of knowing.

Within those influences I tried to keep the initial codes concrete and as close as possible to
the raw data, using the terms that authors used. I used the enumeration and cross
tabulation functions of N*Vivo extensively to cross-check completeness of coding, retrieve
subsets of papers, compare prevalent research practices with marginal practices, test
emergent interpretations and search for gaps and alternative explanations. I kept an
audit trail during coding, a running record of my decision-making. Although I could have
enhanced the transparency of this chapter by presenting sections of papers to illustrate, I
avoided this because I did not wish to criticise particular authors.

CHAPTERS BASED ON TOBACCO DOCUMENTS ONLY

Overall sources

All document data came from primary and secondary document sites on the World Wide
Web arising from litigation in the USA. Other sources of documents exist, in particular,
the warehoused BAT documents in Guildford Depository, but, as discussed in Chapter 13,
this collection is highly inaccessible. Appointments must be made to view the documents in
person on site, and intending researchers are obstructed in various ways. Given the
high cost and risk of relying on these documents, we decided that it would be best for this
project to focus on the documents available on the World Wide Web.

Documents from US manufacturers came from the primary sites of the manufacturers, the
Council for Tobacco Research and the US Tobacco Institute. Documents from
British American Tobacco (BAT) came from the secondary sites of Tobacco Documents
Online (Bliley, BC, Health Canada and Guildford Miscellaneous collections).
Overall search strategies

Searching was greatly facilitated by a custom-built spidering and data storage software system at The University of Sydney. This allowed me to run a search string on an industry-run website, automatically download and save all the documents returned from that string in a batch together with the data about those documents, and then retrieve the batch as a group, within the structure of a database. The system linked each saved document to downloaded data about that document (the data recorded by the indexers from the original site such as document date, organization and author). This database allowed the documents returned to be opened directly as Acrobat Reader (pdf) files rather than being accessed through the cumbersome interfaces provided by the industry websites. The majority of the documents cited arose from a broad search strategy aiming to find all documents relevant to Australia, run through the spidering system. Variations on the search string "pagewood or moorabbin or granville or australia or sydney or melbourne or brisbane or hobart or adelaide or perth or canberra or amatil or wills" were used throughout the data-gathering process to identify documents relating to the Australian market. As problems with the string emerged (for example a person whose surname was Hobart, or previously unknown locations of industry offices) the string was modified to increase efficiency or breadth. This produced a highly redundant set of almost 60,000 documents, which was then sorted, as described in the section below on analysis.

Snowballing – essentially following leads that emerge within the documents themselves, or finding something interesting and pursuing it – is a fundamental aspect of searching tobacco documents, and led both to new topics of study and better understanding of the topics under study. The material on Mongoven, Biscoe and Duchin (MBD) reported in Chapter Eight, for example, arose from a document from MBD found during research around the issue of youth smoking. Fiona Byrne, the librarian and data manager working
on the project, noticed that there were other documents available about MBD and suggested that they might be worth investigating. When I searched the names of the company's principals, and then pursued the leads arising from the documents that contained their names, sufficient material was discovered to write a paper. This organic cumulative process was applied to all of the areas of study. As I became more aware of the importance of context, and issue discussed at length in Chapter 13, I began searching extensively in files and areas to look for an organizational context for important documents. In addition to the documents that I identified alone, myself and other researchers working on the project regularly swapped documents.

The tobacco documents cited here date from 1950 to 2000 and are available because of the transnational communication that went on between local and international operations, as well as document discovery in Philip Morris' Australian offices. The largest number of documents, and the most accessible documents, came from the Philip Morris group, and these formed the bulk of the downloaded documents, as shown in Table Three. Because of the frequently collaborative nature of the industry, some documents found via the Philip Morris document website were from other companies. Snowballing included searching beyond the in-house spidering system, conducting focused searches to follow leads on the secondary sites containing BAT documents in particular; documents retrieved from the secondary sites were in addition to the documents enumerated in Table Three. Because documents on secondary sites had previously been selected by other researchers, they were often more informative and very important to the building of my arguments, particularly in the latter chapters on marketing. As discussed in Chapter Four, the Tobacco Institute of Australia was an important force in Australian communication about tobacco from the 1970s to the 1990s, and its documents were also communicated internationally, particularly to its affiliate, the US Tobacco Institute, which was included in US discovery. R.J.Reynolds was also included in US discovery, but there are only a small number of that company's documents available relevant to Australia, presumably because it was a smaller operation in Australia, working primarily through distribution. Conversely, the documents are relatively silent on Rothmans of Pall Mall, a major player in the Australian market before the 1999 merger, because it was not included in the US litigation. Rothmans may have engaged in many of the activities described here, but little evidence of this is available. Inclusion of documents retrieved from the filing cabinets of companies such as
the American Tobacco Company and Lorillard demonstrate the deep interpenetration of the transnational tobacco industry.

**TABLE THREE: BALANCE OF DOCUMENTS DOWNLOADED BY IN-HOUSE SPIDERING SYSTEM FROM INDUSTRY WEBSITES**

<table>
<thead>
<tr>
<th>Industry Site</th>
<th>Total unique documents downloaded</th>
<th>Percent of total unique documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Tobacco Company</td>
<td>281</td>
<td>0.5</td>
</tr>
<tr>
<td>Council for Tobacco Research</td>
<td>990</td>
<td>1.7</td>
</tr>
<tr>
<td>Tobacco Institute</td>
<td>1218</td>
<td>2.1</td>
</tr>
<tr>
<td>Lorillard</td>
<td>1613</td>
<td>2.8</td>
</tr>
<tr>
<td>Brown &amp; Williamson</td>
<td>2200</td>
<td>3.8</td>
</tr>
<tr>
<td>R.J. Reynolds</td>
<td>2715</td>
<td>4.7</td>
</tr>
<tr>
<td>Philip Morris</td>
<td>49280</td>
<td>84.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>58297</td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

**Overall analysis strategies**

An Excel spreadsheet system was used to organise information: as documents were found, their document number and YYYYMMDD date were copied into the spreadsheet and a document summary made. Originally this spreadsheet contained one worksheet for each of a set of 20 expected tobacco control issues such as youth, addiction, health, tax and advertising. However as the work progressed, and I concentrated increasingly on communication strategies and approached the documents more interpretively, these rapidly became insufficient, too large and too prescriptive and I created separate spreadsheets for a range of topics that I observed in the documents themselves.

For the first two papers that I wrote, those on which Chapters Four, Six and Eight are based, each spreadsheet contained a simple running chronological list of all of the documents that had been found on the subject. The papers were written by copying the entire contents of the spreadsheet into a word processing document of many hundreds of

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*Thanks to Fiona Byrne for this data*
pages, then creating a meaningful commentary by cutting and pasting the text into interpretive thematic groupings, summarising, and selecting important quotes to feature. This method was inefficient and easily became overwhelming. For subsequent papers, each spreadsheet was divided into a master worksheet containing all documents in the collection to enable efficient searching, and sub-worksheets on specific sub-issues. This enabled subsets of material to be considered separately, making analysis less daunting. Document sorting happened during searching – as new threads in the documents emerged a new worksheet or spreadsheet would be set up, documents related to that thread would be identified and copied into it, and then new documents sought on that issue. I made running notes as I went to keep track of the issues, people and events emerging and provide reminders during writing.

One product of my increasing experience with the tobacco documents was abandonment of a ratings system that was originally developed for the project. Documents that myself and other researchers found and abstracted were originally rated as useless, duplicates, or on a scale: 3 stars for documents of outstanding importance, 2 stars for those of moderate importance, and 1 star for those of low importance. This was essentially an intuitive judgement based on the document's likely advocacy potential, that is, how scandalous it was from a political and tobacco control point of view. Over the first year it became clear to me that this was not a useful system for my own research. Frequently documents that were apparently without value would develop more meanings and importance in the context of other documents and other findings, and my interest, particularly later in the process, was in trying to understand how industry communications worked rather than simply collecting damning quotations. It became more meaningful to tag documents as being relevant to particular topics, and then to consider them in the light of all of the available evidence when analysing and writing.

When I reached my time limit for searching on a subject I began re-reading my summaries of the documents, filling in blanks where they had been left and often following up previously unidentified leads. I would organise and re-organise the documents into finer and finer non-mutually-exclusive categories, using these categories as the basis for sections of text in the paper or chapter under construction. I developed the text from my document summaries and other sources, frequently returning to check the original documents when the summaries were insufficient. Writing and analysis were inextricably
linked, and were also entwined with data gathering. Analysis/writing would produce new questions or uncertainties, which would require more searching to try to make sense of, which would lead to more material which fed into the analysis/writing process.

Chapter Four Cooperation and control: the Tobacco Institute of Australia

This chapter describes the history of the Tobacco Institute of Australia, and the way in which it facilitated interconnectedness within the Australian industry and between the Australian and international industries. After some months of using the broad “Australia” search and sorting the resulting documents into subject headings, it became apparent that the TIA were an important force in the history of the Australian industry and that a study of the industry would be incomplete without an understanding of the TIA. Chapters Four and Six both arose from this realisation, and thus began not with the broad “Australia” search, but from a specific name search, which occurred in two stages. The first search, of all industry document sites using the in-house spidering system, used the string: (“tobacco institute of australia”|“tia”|“ti of aus”|“tob* inst* of aus”|“tob* inst* of aus”|“tob* inst* of aus”|“tob* inst* of aus”|“tob* inst* of aus”|“tob* inst* of aus”) resulting in 2917 documents. Leads identified from these documents, particularly individuals, projects, files and master documents, led to further searches, resulting in a further 1624 documents. 869 documents were abstracted. Chapters Four and Six were both developed from these documents. A worksheet was developed to keep track of people, which is reproduced in Appendix Four, otherwise material was kept in a single long worksheet without subject headings. I think as a result of this analysis was strongly chronological for this Chapter - more so than for any other - and also relied heavily on exploring the activities of individuals to create a sense of order. This can be seen in the finished products – Chapters Four and Six are strongly oriented towards concrete “facts” – people, events and when things happened – more than themes.

Chapter Five Smoking, disease and obdurate denial: the Australian tobacco industry in the 1980s

This chapter explores the Australian industry’s approach to the issue of smoking and disease in the 1980s. It was based on documents returned from the broad “Australia” search. In all, 320 documents were identified from the 1980s that related to the issue of
smoking and disease. Documents were organised into worksheets with the following topic areas as headings, themes that I had observed in the documents:

1. the industry's own research;
2. industry providing information to the general public;
3. industry promoting its own research;
4. industry communicating with its own employees;
5. industry communicating with people in the mass media;
6. information about litigation;
7. industry opposing tobacco control; and
8. information about public opinion.

As can be seen in Chapter Five, these were eventually combined into two meta-themes:

1. corporate knowledge and corporate communication. The movement from thinking chronologically to a more thematic analysis is reflected in the finished product, which is less concerned with lists of people and events and more with patterns and interpretation.

Chapter Six The TIA's "active smoking media statement"
Chapter Six describes in detail a single event identified during my searches for documents about the TIA. The event was a battle in the early 1990s over a cohesive public statement that the industry could make about smoking and disease. The 36 documents used for this chapter were a subset of the 869 documents abstracted for Chapter Four, and were written based on the older method of summarising and chronologically ordering the documents.

Chapter Seven From legitimate consumers to public relations pawns: the tobacco industry and young Australians
This chapter examines in detail the approach of the Australian industry and its corporate parents to the issue of youth smoking. This chapter was also developed from the broad "Australia" search and was the first chapter to use a thematic as well as a chronological method of analysis. In all, 492 documents were abstracted while developing this chapter. This was the only chapter for which I used N*Vivo to conduct my thematic analysis. (I now understand that NUDIST would have been more appropriate: the time taken to import notes on the documents and analyse them, and the large number of small documents, did not allow N*Vivo to be used very effectively or efficiently.) The coding structure developed during the analysis is reproduced in Appendix Seven. The end product of the N*Vivo
analysis was not of appreciably higher quality than the other analyses conducted using the Excel spreadsheet system described above. I think this was because of the highly fragmented nature of the data, which meant that my attempts to develop codes that were concrete and as close as possible to the raw data led to an enormous number of codes being developed. Subsequently N*Vivo was abandoned for the rest of the project, although I continue to find it invaluable for analysis of other kinds of data such as interview data.

Chapter Eight Mongoven, Biscoe and Duchin: destroying tobacco control from the inside

As described above, this chapter developed from following a lead when researching Chapter Seven. The lead was followed by searching separately by name for Mongoven, Biscoe and Duchin and for the company name, and then via further snowball searching as documents were found. The paper was developed from a simple chronological ordering of all of the documents found.

CHAPTERS COMBINING INDUSTRY DOCUMENTS WITH OTHER SOURCES

Chapters Nine to Eleven

These three chapters explore three aspects of the marketing of cigarettes in Australia: cigarette brands, below-the-line marketing (other than in the retail environment), and retail marketing. The tobacco documents used in these three chapters were found during the broad "Australia" search and via subsequent snowballing. A total of 692 documents were found that related to the development and marketing of cigarette brands in Australia. A subset of 172 of these related to the transportability of Australian brands and the importance of the retail environment, the subjects of Chapters Ten and Eleven respectively.

The documents for this section were all kept in a single spreadsheet. The worksheet titles in this spreadsheet were:
1. above-the-line: documents about mass media advertising;
2. below-the-line: documents about below-the-line marketing;
3. users: information about the consumers brands were intended to appeal to;
4. brand strategies general: general information about cigarette brand development and maintenance;
5. premium: information about this brand category;
6. mainstream: information about this brand category;
7. supervalue: information about this brand category;
8. transportable: information about designing brands to be sustained after marketing restrictions;
9. brand image: information about consumers’ perceptions of brands’ identities;
10. international brands: details about marketing international brands in Australia;
11. Marlboro versus Winfield: details of the market struggle between the two brands;
12. brand-as-person: documents about the people used to promote specific brands;
13. Iow TPM: information about “low tar” brands; and
14. trademarks, brandshare data and licensing: information about the appearance, performance and disappearance of brands in the Australian market.

These chapters also drew heavily on retail trade publications. The three main trade journals Australian Retail Tobacconist, Retail World and Australian Service Station and Convenience Store News (pre-November 2001)/Australian Convenience Store News (post-November 2001) were searched by hand. Searching started from 1990 because the brand makeup of the Australian market changed enormously at that time and the aim of this chapter was to explore brands that were currently important in Australia. All articles and corporate advertisements that mentioned tobacco products or companies were copied. A particularly important source was the ACNielsen review of the top 100 brands in the Australian grocery market published annually in Retail World, which provides a brief description of brand positioning. My summaries of the information in these reviews are in Appendix Nine. Journalism and editorials from the retail magazines were treated in a similar way to the material sourced from tobacco documents. The aim was to interpret Australian cigarette marketing, trying to take the corporations’ and retailers’ points of view as far as was possible from the sources. All identified statements relevant to cigarette marketing were annotated verbatim and included in my working spreadsheet of tobacco industry documents.
In addition, advertisements for ready-made cigarettes and corporate advertising in retail trade publications were examined. All brand advertisements placed by PML, BATA or ITA for ready-made cigarettes from January 2001 to June 2003 were colour copied. One hundred instances of advertising, comprising 44 unique advertisements for only 13 brands were identified from the 30-month period of study. Advertisements were classified into the three brand categories discussed in Chapter Nine: premium (quality, mostly international brand cigarettes), mainstream (the "Aussie" brands Peter Jackson and Winfield), and supervalue (budget cigarettes). Another spreadsheet was developed to organise this information together with information from the retailer magazines about brand management and share. It contained worksheets on:

1. brand share: brand share data from a variety of sources;
2. brand ownership: tracking which company owned which brands following the merger;
3. agencies: tracking which agencies managed which accounts over time;
4. brand positioning information from retail world (reproduced in appendix nine);
5. premium advertisements: detailed observations on each unique premium advertisement;
6. mainstream advertisements: as above for the mainstream brand category; and
7. supervalue advertisements: as above for the supervalue brand category.

In worksheets five to seven above, for each unique advertisement, the following information was recorded:

1. brand name and whether advertisement was for whole family or specific variant/s;
2. each instance of use of the advertisement, including publication, date, whether the advertisement was used on a cover or covered more than one page;
3. whether something new was announced in the advertisement, and if so, which of the following:
   a. new variant: if the advertisement overtly promoted a new variant in the brand family as a new consumer benefit;
   b. new product changes: if the advertisement overtly promoted a change in existing product (as opposed to a new variant);
   c. new pack design: overt promotion of new package design;
   d. new tar band: overt promotion of new tar banding;
   e. new pack size: overt promotion of new pack size;
4. wide variant range: advertisement emphasised that the brand family offered a wide range of variants;
5. light/mild emphasised: if advertisement for a whole brand family featured a light or mild pack and/or descriptor – not advertisements where other variants were also featured, or a list of all variants given;
6. pack image used: advertisement contained image/s of pack/s;
7. pack heroed: the pack was interpreted as being “heroed” if it was the dominant image on the page, it was respected, validated, made the “star”. If there was a small image of the pack, or the pack was not made to stand out from the images around it, or if it was there merely for identification, not given life, not in the spotlight, then it was not “heroed”;
8. brand imagery: advertisement contained added imagery which communicated the brand’s identity, either providing context for the pack or carrying the advertisement;
9. retailer text: advertisement contained information about the business aspects of selling cigarettes such as profit and sales figures;
10. positioning statement: advertisement contained text that positioned the brand and communicated aspects of the brands’ identity;
11. my own detailed description of the advertisement; and
12. my interpretation of the way in which the retailer was constructed by the advertisement: did the ad communicate with the retailer as though they were the manager of a business, or a smoker, or both?

This analysis of the content of the advertisements was interpretive, in line with my discussion of methodology in Chapter 13. These were my readings, and others would clearly respond differently to advertising depending on the resonances provided by their own life experiences. The resulting discussion is not an exhaustive explanation of brands in the Australian market, but my own condensed reflection of the information opportunistically available from industry and retail sources.

Analysis for these chapters was far more complex than for the preceding chapters because I had a stronger conceptual framework, Aaker’s brand theory and the three brand categories nominated in the documents and the retail literature, to provide structure, and because I had a greater diversity of material to draw on. Tentative interpretations from one source could be compared against other sources and amended. Changes over time could
be more readily observed because of access to a complete collection of retail magazines containing continuity of reporting. However the logistics of analysis were the same: ordering information available thematically, asking iterative questions of the sources, and analysing and writing simultaneously.

LIMITATIONS

Both Chapters Two and 13 were dependent on Medline indexing. Chapter 13 should not be taken to be a study of TDR research practice: it is likely that many authors did not describe their research practices comprehensively in their papers, making it a study of research reporting. The model and discussions in Chapter 13 are not intended to be prescriptive, but to offer possibilities that other researchers can build on and modify. Chapter 13 discusses limitations on tobacco document research in detail: these observations apply to my own document research. In addition to the fact that the available documents are not representative of the complete population of documents in that way that a regular organizational archive would be, my sample of this already unrepresentative sample is undoubtedly incomplete. In all cases except Chapters Four, Six and Seven, I stopped searching because I had run out of time, not because there were no more documents. If I had time to read every document available I would no doubt find much material that I missed searching by keyword. While I made every attempt to include as many documents as possible, there are likely to be many that have gone unidentified either because my searching did not return them or because they have been loaded onto the sites since I stopped searching. I processed a massive volume of documents that were often long and redundant; I am bound to have missed some that were pertinent.

During my early research I did not understand the importance of including context external to the documents as well as I do now. If I had unlimited time my early chapters could have been enhanced by including other sources such as contemporary news media and litigation. I did originally plan to seek ex-employees of the industry and its marketing agencies to provide “insider” checks on my interpretation of the documents: my right to do this was denied by the University of Sydney on the grounds that it would expose the University to legal risk, closing off this potential source of information. There are also limitations, discussed in detail in Chapter 13, that apply to any work that attempts to make sense of past events from a limited set of sources.
These are, in summation, my careful interpretations, from the perspective of tobacco control, of a set of sources that are incomplete windows on the past.

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   URL: http://www.cdc.gov/tobacco/industrydocs/index.htm


SECTION TWO: TOBACCO CORPORATE AFFAIRS
CHAPTER FOUR COOPERATION AND CONTROL: THE TOBACCO INSTITUTE OF AUSTRALIA

INTRODUCTION

The purpose of this chapter is to describe the operations of the Tobacco Institute of Australia (TIA), the primary voice for tobacco in Australia from 1978 to 1997, and in particular to examine the TIA's relationship to Australian cigarette manufacturers and to the international tobacco industry.

Before the paper on which this chapter is based was published, there was little information about the TIA in the literature. The TIA was a National Manufacturers Association (NMA) – a group representing joint industry interests, creating a united front and lower public profile for individual manufacturers. The TIA co-existed with, predated, and was linked to many similar NMAs worldwide, thus an understanding of the TIA may inform understandings of the role and functions of other NMAs. As suggested in Chapter Two, it is common for corporations to be connected to one another through commercial participation in the TNC networks that are hubs of the world's economy. Industries also commonly have lobbyists, national associations and international associations representing their interests to decision makers and the public, and across industries TNCs are jointly represented by organizations such as the International Chamber of Commerce. However the interconnectedness of tobacco corporations takes on special significance in light of the harmfulness of their product to consumers, and the industry's concerted attempts to undermine the credibility of information provided to smokers by public health and medical professionals over the last half-century.

Interconnectedness is a key issue in Australia for two reasons. First, there is a tendency in Australian advocacy to conflate "the industry" rather than examining individual manufacturers, a valid focus only if the manufacturers were clearly working together. More significantly, the structure of the Australian industry makes interconnectedness an important issue. In the US the industry is domestic and has historical, financial, cultural and manufacturing roots deep in American soil. This is not the case in Australia, making it vitally important to understand the relationship between the Australian and international
industries. As noted in Chapter One, tobacco companies operating in Australia have moved onto and more frequently off the Australian Stock Exchange as a result of mergers and acquisitions, and independent Australian tobacco companies have barely existed, most operators being part of international conglomerates. Corporate governance is not straightforward: control of basic functions such as marketing shift from global offices to local offices and back. When confronted with international legal findings, the local manufacturers have been known to claim that they are "completely different" to overseas operators,¹-³ a proposition largely untested in Australian courts as litigation here is in its infancy. All of these factors make it impossible to presume anything about the relationships between Australian tobacco manufacturers and other organizations. As evidence mounts from the tobacco industry documents, mostly regarding conduct in the USA, advocates, lawyers, politicians and others in Australia thus rightly ask: what possible relevance has this for us? The operation of the TIA is one piece in the puzzle of the relationships of the Australian tobacco manufacturers to one another and to their international parents and associates.

My interest in the TIA centred on questions relating to connectedness, cooperation and control within the international and local industry, in particular:

1. Did the TIA connect the international industry to the local industry and if so, how?
2. Did local cigarette manufacturers cooperate through the TIA to mislead Australian consumers?

An understanding of the relationships between local and international manufacturers is vital for advocacy, lobbying and interpretation of history. In addition, the Australian Trade Practices Act 1974 limits cooperation between industry competitors, and the Australian Competition and Consumer Commission has recently been given the power to criminally prosecute cartels,⁴ increasing the potential usefulness of this information in Australian litigation.

RESULTS

In 1975, as publicity about the health effects of smoking accelerated following the introduction of health warnings, PML proposed that an Australian equivalent of the US Tobacco Institute was needed to "draw the line of fire away from the cigarette companies
The TIA was established in 1978, "in response to pressure for electronic advertising bans, an Industry Assistance Commission Inquiry and the pressing need for industry coordination in relation to non-competitive issues." Its objectives were:

1. "to defend the industry's right to market its products without unwarranted restrictions in Australia;
2. to promote a better understanding by decision makers and the various Australian publics of the tobacco industry and its place in the national economy;
3. wherever possible, to gain recognition for the beneficial aspects of smoking; and
4. to introduce a proper perspective on environmental hazards which have a detrimental effect on public health."

Between 1978 and 1997 it pursued these objectives via strategies including attacks on individuals and organizations making health claims; personal contact with politicians; using other groups as spokespeople for the tobacco industry; the production of films and publications; media liaison; paid advertising; litigation; nurturing industry-friendly scientists and consultants, and making submissions to government inquiries. The TIA had three founding members: PML, Rothmans, and WD&HO Wills. R.J.Reynolds was a member only from 1980 to 1991.

Four seasons: an organizational history of the TIA

The TIA's history can be divided into four chapters.

Join hands for commercial freedom 1978 to 1983: five years

From 1978 to 1983, the TIA focused on networking, lobbying and publication, regarding advertising bans, environmental tobacco smoke (ETS), smoking and health, youth smoking, and the industry's economic contribution. Its inaugural director was Bryan Simpson, ex-Chairman of the Australian Media Council, Marketing Director of the newspaper group Herald and Weekly Times Ltd., and friend of the industry. He established the "TIA News Bulletin" to communicate industry positions; contacted politicians and bureaucrats; established a "tobacco action network"; and formed relationships with consultants. Although Nigel Gray, a tobacco control advocate from
that time, remembers Simpson as less than incisive in public debate, PMI felt that “the ability of the TIA to respond to the media ... improved consistently” under his leadership, and he went on to an international career in the tobacco industry. Brian Gapes succeeded Simpson in October 1982. Gapes was another industry-friendly advertising man, with conservative political connections, and was former Chairman of the Tobacco Products Advertising Council, a self-regulatory body of the Advertising Federation of Australia.

Gapes continued Simpson’s relationship building and lobbying until his departure in 1983.

**Take no prisoners 1983 to 1989: six years**

John Dollisson, TIA Chief Executive Officer (CEO) from 1983 to 1987, was a strong personality, strategist and media player with a dramatic flair, who claimed to have previously worked for government in a specialist statistical role. He was noticed internationally by the industry in 1983 when he led successful opposition to a proposed ban on tobacco advertising in Western Australia. Dollisson’s aggressiveness and breadth of focus is exemplified by his “Casebook Approach” to communication on corporate affairs issues: a comprehensive collection of detailed, pre-emptive positions, developed in collaboration with the manufacturers during his appointment, which contained ideas, arguments, rationales, and means by which to attack proponents of tobacco control.

Under Dollisson the TIA rapidly became “highly competent and effective” in the eyes of the international industry. By 1984 he was on the international industry’s speaking circuit, and by 1986, R.J. Reynolds was concerned about the continued effectiveness of the TIA when he moved on.

Dollisson regularly and aggressively advanced the industry’s arguments in public, arguing, for example, that active and passive smoking were not harmful, that nicotine was not addictive, and that advertising did not influence non-smokers, particularly children. Ironically, the TIA’s Achilles’ heel was Dollisson’s aggressive advocacy. In July 1986 he placed an advertisement in the national press entitled “A message from those who do...to those who don’t” in which he claimed “there is little evidence and nothing which proves scientifically that cigarette smoke causes disease in non-smokers.”

Early in 1987, Dollisson placed a “followup” ad for the TIA, as demanded by the Trade Practices Commission, which among other things stated that the TIA did not accept that their original

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* Gray N. Personal communication. 2002 Nov 29.
advertisement was misleading. This action triggered a six-year legal war between TIA and the Australian Federation of Consumer Organizations (AFCO), at substantial cost to the TIA.

When Dollisson moved to PMI in 1987 he was replaced by Blair Hunt. During Hunt’s two-year stay the TIA began a long decline in influence. A fight against the 1987 Victorian Tobacco Control Bill, in cooperation with Dollisson at PMI, and using many of the tactics from 1983 in Western Australia, was spectacularly unsuccessful. In an industry newly preoccupied with legal liability, perceptions of Dollisson’s strategies seem to have changed. In a key meeting between manufacturers, TIA and counsel in September 1987, the TIA was warned that it was becoming increasingly difficult to develop witnesses on the health issue, that hypocrisy on the industry’s part could work against it in court and that new tactics were needed, concluding: “it is essential that the industry be right in everything it says... Spokesmen for the industry must be cautious, correct and credible. They should ensure that what is said or done does not undercut product liability defence.” In 1989 a Brown and Williamson executive wrote: “I am extremely leery of any project on which John Dollisson is the PM representative... since he is not well controlled by New York.” Hunt left early in 1989, narrowly escaping the beginning of a troubled five years for the TIA.

Lick the wounds, send in the lawyers 1989 to 1994: five years

Richard Mulcahy took over from Blair Hunt in 1989. Mulcahy was a former director of the Wrigley Gum Company with more than 15 years experience in management of corporate affairs for various organizations, including work for the US Embassy in Canberra and the Premier of Victoria, and as CEO of the Confectionary Manufacturers of Australia, the NMA for another controversial industry. Mulcahy disappears from industry documents in mid 1990, about the same time that he began a long career as National Executive Director of the Australian Hotels Association. Although there is no documentary evidence that this was a deliberate strategic move, ETS in hospitality settings was becoming a major preoccupation of the Australian tobacco industry, and the Australian Hotels Association supported the tobacco industry consistently on ETS issues. Mulcahy’s replacement, John St Vincent Welch, and his deputy and successor Reinier Jessurun both fell quickly from favour with the manufacturers, and Jerome Mostyn, Jessurun’s replacement and a
long-time BAT man, appears to have been terminated after only six months following a political misdemeanour.31

From 1989 to 1994 the TIA was active, with a $A19,508,687 budget between 1991 and 1994,6 but it was a difficult, disjointed and transitional period, during which Dollisson’s headstrong, confident legacy was overturned by defeat and legal caution. In large part, this was due to AFCO vs. TIA. On February 7th 1991 Justice Morling decided that the TIA “had engaged in conduct that was misleading or deceptive” and banned the TIA from speaking publicly on ETS.32,33 On appeal the injunction was lifted, but the court granted a declaration that the advertisement was misleading and deceptive contrary to the Act and the TIA were ordered to pay a large proportion of AFCO’s costs. The industry has consistently attempted to represent this as an overturning of Morling’s decision, but it was not: the substance was unchallenged. Due largely to the case, the TIA’s credibility within the industry hit an all-time low and control shifted to the local and international manufacturers and their counsel, as evidenced by a 1992 Philip Morris Companies (New York) directive that “any future statements by TIA on this subject will be carefully reviewed by the lawyers, so that the problems inherent in the 1986 ad can be avoided.”34

Last days 1994 to 1997: three years
Donna Staunton was the TIA’s General Counsel from the early 1990s and before that was Senior Associate for the industry’s Australian lawyers, Clayton Utz. By December 1993 she was made the TIA’s CEO, and appointed a team of lawyers as staff, further strengthening the legal character and control of the organization. Instructed explicitly by the manufacturers’ lawyers,35 she reintroduced dynamism to the TIA, undertaking consultations with local and international counsel, organising tours of legal experts, developing formal cleared position statements, undermining the National Health and Medical Research Council’s report on ETS, and participating in a 1994 Industry Commission Inquiry. Under her guidance the TIA was, according to PML, in its “best shape for years... and operating effectively ...12 months ago ignorance and distortion [in public affairs matters in Australia] were virtually universal. Amongst the chief causes of this appalling situation was the muzzling of our side of the debate and the virtual paralysis of the Tobacco Institute which followed the iniquitous Morling decision... Following a reversal
of Morling on appeal, the industry and a newly revitalised Tobacco Institute in particular are involved in a broad debate which is at least partly on our agenda.\textsuperscript{36}

By January 1995 Staunton had moved to PML as Director of Corporate Affairs, and after only three months she was promoted to become head of PMI Corporate Affairs for the region. She was replaced by another experienced tobacco executive, Brendan Brady, but not for long. WD&HO Wills resigned from the TIA by mid 1996, and Brady not long afterwards, to be replaced briefly by his deputy and the TIA's General Counsel, Adrian Lucchese.\textsuperscript{37} The public face of the organization seems to have died a quiet death sometime in 1997,\textsuperscript{38} although it still exists on paper.\textsuperscript{f}

The interconnectedness of the industry

Industry documents suggest that the TIA facilitated several relevant forms of interconnectedness: links between local manufacturers, links formed by individuals, links to international tobacco organizations, legal links, and information links.

Links between local manufacturers

The documents clearly show that the TIA linked local manufacturers from its inception, and that the level of cooperation between the manufacturers fluctuated over time. Cooperation was not new: the manufacturers had set up an "ad hoc committee" to manage communication on the "health question" in 1969,\textsuperscript{39} and according to Andrew Whist, Vice President of Corporate Affairs at PMI, "historically, the industry [was] better organized in Australia than just about anywhere else...because of the three way market split. it [was] much easier to arrive at a consensus."\textsuperscript{40} Australian manufacturers made agreements on public positions and were expected to stick to them,\textsuperscript{41} and the TIA enhanced this cooperation throughout the 1980s, when "company support for the [TIA was] very strong, including the secondment of company personnel for lobbying representational activities,"\textsuperscript{42} "the [TIA was] dynamically led by the companies,"\textsuperscript{43} and PML, at least, saw itself as "directing" the TIA.\textsuperscript{44}

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\textsuperscript{f} Special purpose director's report and financial report lodged on June 3 2002 by British American Tobacco Australia, signed by Brendan Brady on 23 November 2001
Cooperation was a hallmark of the 1980s, but contest for control is more evident in documents from the early 1990s. In the TIA’s dark days, R.J. Reynolds left and the remaining members lost faith. WD&HO Wills thought the TIA’s structure was “ineffective and unmanageable and therefore not serving WD&HO Wills’ interests,” that the organization typically failed to foresee coming disasters for the industry, and that replacement staff would need “a degree of maturity, which has not been evident at the TIA for some time... given our recent lack of success with outsiders.” In May 1993, a Philip Morris executive wrote: “we should question the assumption that there be an industry voice either collectively or through the TIA. While consistency and cooperation among [manufacturers] is essential, one of the challenges facing us is the negative baggage of TIA and the correct strategy for successfully co-opting our two competitors. I am presently inclined to the view that PM should fully develop its strategy and its implementation before we fully involve the other companies”. Cooperation may have been hampered by individual manufacturers’ desires to co-opt the TIA’s agenda and to ensure industry consistency on their own terms, which may also have contributed to WD&HO Wills’ departure from the TIA in 1996. A detailed example of tension between the manufacturers in the early 1990s is given in Chapter Six.

The manufacturers were undoubtedly divided by local price wars and responses to taxation policy but my interpretation of the documents is that there was a more profound international power struggle going on, reflected at the TIA: PM was in power, and BAT was revolting against the implications of that hegemony. By 1990 PMI were acting as general counsel to the international tobacco organization INFOTAB and from Staunton’s appointment onwards the TIA also appears to have been increasingly aligned with PML. PML explained WD&HO Wills’ defection as consistent with British American Tobacco’s increasing independence, resistance to being involved in “PM dominated industry initiatives”, and intention to be “in the same shape that Philip Morris is in currently - that is, to be aggressive, out in front, to be the industry leader.”

Despite the evident tension in the 1990s, manufacturers’ counsel were all closely involved in the TIA’s affairs, the TIA was active on the manufacturers’ behalf, and the TIA’s policy was that it “should not and would not pursue any course of action without the support of the three [manufacturers].” Since the dissolution of the TIA, there have been a number of cooperative industry activities launched in Australia, notably on youth smoking as
documented in Chapter Five, suggesting that, at least on some issues, the Corporate Affairs managers at the major manufacturers have been able to rediscover some common ground.

**People links**

Individual staff linked the local and international manufacturers and local and international organizations as they moved from one position to the next. Executives moved in and out of the TIA from advertising, politics, law firms acting for tobacco, and particularly the local and international manufacturers and tobacco lobby groups. Bryan Simpson was a consummate networker, linking the TIA to US manufacturers, the US Tobacco Institute (USTI), US consultants including Council for Tobacco Research stalwart Leonard Zahn in New York, and the international tobacco organisations ICOSI and INFOTAB, described below. After time overseas he brought his experience back to Australia, standing in as a temporary director or lobbyist when the TIA was under pressure into the mid 1990s. Mostyn and Brady brought experience of working for BAT and lobbying in the UK to the TIA; Ken Pimblett worked for both the TIA and R.J. Reynolds Australia; and John Gonsci worked for Rothmans Australia and acted as Chair of the TIA’s Legal Committee. Donna Staunton, in addition to her knowledge from working for Clayton Utz, may have linked the TIA most strongly to Philip Morris: she met regularly with Henry Goldberg, the Managing Director of Philip Morris Australia, and sent reports to Goldberg which do not appear to have been copied to other directors as one would expect.\textsuperscript{56,57} Greg Fowler from Shook Hardy and Bacon, US-based counsel to the international industry, worked on TIA business in Melbourne in the 1990s, reporting back to Shook Hardy and Bacon.

It is not unusual for executives to move between organizations within a field in the course of their career: the significance of these connections is as additional evidence that the TIA’s business and corporate memory was entwined with that of the local and international industry.

**INFOTAB and the USTI: the 1980s**

The TIA also linked the local companies to international tobacco organizations, although these relationships changed over time. In the 1980s both the old and established USTI and INFOTAB, an international NMA support organization, were strongly linked to the TIA. The
International Committee on Smoking Issues (ICOSI) was established in the late 1970s and renamed INFOTAB in 1981. INFOTAB was a hub for tobacco companies, leaf dealers, and in particular about 30 NMAs like the TIA, many of which INFOTAB had actively 'planted.'

The development of this network was a formal, international agreement by the industry to cooperate on non-competitive issues; a deliberate collusion against the best interests of the consumer to protect industry profits. INFOTAB and the TIA were in constant contact, keeping the TIA updated on issues, the industry and its opponents worldwide. Simpson had also negotiated a relationship of "direct contact" between the TIA and the USTI when the TIA was founded, and nurtured the link into the 1980s. New TIA directors routinely visited the USTI for orientation, and the institutes swapped tactics and information. Table Four provides details of the links between the TIA and ICOSI/INFOTAB.

**Legal control: the 1990s**

In contrast to the cooperative 1980s, in the 1990s many TIA staff were lawyers, and the TIA was directed by a triumvirate: a committee of the in-house counsel of the manufacturers; Clayton Utz, the TIA's counsel; and most importantly, Shook Hardy and Bacon in Kansas. Legal involvement in the TIA was not new: Simpson corresponded regularly with Shook Hardy and Bacon in the early 1980s, and Dollisson had, ironically, been aware of nascent product liability threats in 1985, retaining a medical advisor, Dr Allan Crawford, a barrister, Barry O'Keefe, and a legal firm, Clayton Utz, sending them all overseas to be briefed by the international industry and their counsel. In 1988 the TIA began a document management program to prepare for potential product liability claims.

In 1990 a solicitor from Baker & McKenzie was appointed as staff Legal Manager, and the Tobacco Institute Legal Committee was established. Importantly, this committee was comprised of senior management and counsel from the member manufacturers (along with TIA staff): Phil Francis and Judy Hargrave from PML; Martin Riordan and John Carroll from WD&HO Wills; and Peter Alexander, John Gonczi and Peter Malecki from Rothmans. From this point on the manufacturers and their counsel monitored and cleared the TIA's work, and legal involvement intensified exponentially as AFCO brought the international industry and their lawyers deeper into the TIA's affairs. Tony Andrade, a senior London-based PMI lawyer, devoted substantial time to the AFCO case, witness development occurred overseas, and attorney's bills were covered by PML, Rothmans and R.J.Reynolds.
despite the fact that they were not under trial (only the TIA was sued). In 1991 Clayton Utz re-negotiated existing retainers for local senior counsel Jeffrey Sher QC, Richard Stanley QC and Joseph Santamaria QC, an increasingly expensive proposition, but necessary in the face of the increased “threat” of litigation. It appears that TIA management were not always part of the decision making on this increased legal involvement. Early 1990s documents show direct correspondence between the manufacturers’ counsel regarding TIA business, not always copied to TIA staff.

This cumulating legal control reached a deciding point in April 1991, when Chuck Wall (PMI) wrote two memos to Judy Hargrave, counsel to PML. In the first he made plain that PMI was to “keep a hands-on involvement with the AFCO case, including the approval of any briefs that are submitted, assuming we decide to appeal.” In the second, which, importantly, was expressed as the joint view of all of the international tobacco companies, he essentially insisted that from that point on, clearance should be managed by the Legal Committee (that is, the manufacturers’ counsel), not Clayton Utz alone; and that Bob Northrip from Shook Hardy and Bacon Kansas should take control. “We have a great deal of confidence in Bob Northrip on all issues relating to smoking and health. Therefore, we have asked Bob to work with the Institute, the committee and Clayton Utz, to see that there is coordination, and that proper action is taken.” Northrip appears to have taken a leading role on vital issues from that point. He finalised the brief for the AFCO vs. TIA case with the member companies, he made visits to Australia, and Clayton Utz were required to respond to his advice.

In 1992 another Shook Hardy and Bacon lawyer, Greg Fowler, also became involved, initially coordinating TIA smoking and health work (previously done in-house or at Clayton Utz) from Kansas, and then in January 1993 moving to Australia for approximately a year. Fowler seems to have been based at Philip Morris but to have worked substantially on TIA projects, and to have reported to Northrip at the Shook Hardy and Bacon Kansas home base. Despite the tensions, the TIA’s actions certainly appear to have been controlled by the local and international manufacturers and their counsel in the 1990s.
Information links

This form of interconnectedness is particularly important in that it shows that the TIA was intimately informed of international developments in smoking and health research. There are no grounds for the Australian industry arguing that they were somehow unaware of the international research on smoking and health: its continuing public recalcitrance was not due to ignorance, but a deliberate attempt to protect industry interests. Information was supplied first by the USTI/INFOTAB links, and then by the legal links. INFOTAB and the USTI operated substantial and constantly updated databases of information in the 1980s and early 1990s, providing the TIA with media monitoring; copies of published papers and reports; catalogues of NMA resources and programs for implementation; intelligence from NMAs and consultants on health conferences and organizations including the World Health Organization; reports of international legal activity; and coordinated responses to international public health activities.42,73

For at least five years in the 1980s, an Information Officer was employed by the TIA solely to manage the deluge of material. Because many NMAs had a similar officer, INFOTAB ran an “internal meeting for documentalists, librarians and information officers” in Brussels in 1985,74 at which Simpson declared: “like a competent army, the Tobacco Industry needs first class intelligence, and on a world wide basis INFOTAB is endeavouring to supply this vital need to its members, its associations, and lead companies... we at INFOTAB carefully sift all the material available and include it in the resources available to you. We also encourage as much science as possible which offers a balanced view on the smoking issue.”75 This highlights an important role performed by these information sources – actively seeking and making accessible the tiny subset of research which supported the industry’s views, as illustrated by a TIA request to the USTI for “articles refuting SG report or UK Royal College of Physicians report.”76 The exchange was bilateral: the TIA provided resources to INFOTAB, including personnel to present at global and regional meetings, and information for the extensive INFOTAB database, particularly during Dollisson’s appointment.

INFOTAB closed between 1990 and 1991, and as legal involvement increased across the 1990s, Shook Hardy and Bacon provided information and education to the TIA in place of INFOTAB, as well as reviewing and clearing TIA publications and advising Clayton Utz. By
1994, Shook Hardy and Bacon appear to have been serving NMAs and non-PM companies worldwide, undertaking tasks such as preparing talking points, and running "smoking and health" seminars for BAT Co., attended by the TIA. Table Four provides details of the links between the TIA and ICOSI/INFOTAB.

**TABLE FOUR: RELATIONSHIP BETWEEN THE TIA AND ICOSI/INFOTAB**

Date ranges are the range for which documents have been found, thus represent a minimum date range for the activity.

<table>
<thead>
<tr>
<th>INFOTAB WAS A RESOURCE FOR TIA</th>
<th>TIA WAS A RESOURCE FOR INFOTAB</th>
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<tbody>
<tr>
<td>INFOTAB provided information</td>
<td>INFOTAB catalogued NMA resources, including those devised by TIA</td>
</tr>
<tr>
<td><strong>1980 to 1991</strong></td>
<td>Distribution of research papers or reports, sometimes by industry consultants, sometimes with analysis by INFOTAB staff. (^{79-101})</td>
</tr>
<tr>
<td><strong>1979 to 1986</strong></td>
<td>INFOTAB catalogued NMA resources, including those devised by TIA</td>
</tr>
<tr>
<td><strong>1983 to 1987</strong></td>
<td>Distribution of intelligence on WHO and ICOU. (^{104-110})</td>
</tr>
<tr>
<td><strong>1983 to 1987</strong></td>
<td>Monitoring international conferences and expert hearings, distribution of reports on general and specific smoking and disease research and behavioural research. (^{113-128})</td>
</tr>
<tr>
<td><strong>1985 to 1986</strong></td>
<td>Provided information about international court cases. (^{130-133})</td>
</tr>
<tr>
<td><strong>1983 to 1990</strong></td>
<td>Provision of materials to allow industry response to major public health events, including the 1986 US Surgeon Generals Report and World Conferences on Smoking and Health five to seven. TIA helped monitor the Tokyo conference (six), and worked extensively against the Perth conference (seven) including substantial pre-emptive media work and hiring an Australian PR firm, International Public Relations. (^{136-141})</td>
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</tbody>
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<thead>
<tr>
<th>Date</th>
<th>INFOTAB catalogued NMA resources, including those devised by TIA</th>
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<tbody>
<tr>
<td><strong>1979</strong></td>
<td>Film on ETS described as &quot;first class.&quot; (^{102,103})</td>
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<tr>
<td><strong>1981</strong></td>
<td>Work on economics entitled &quot;Australia's Golden Leaf.&quot; (^{111,112})</td>
</tr>
<tr>
<td><strong>1982</strong></td>
<td>Paper by Simpson entitled &quot;a case for the continuation of the right of cigarette manufacturers to advertise their brands.&quot; (^{129})</td>
</tr>
<tr>
<td><strong>1983</strong></td>
<td>TIA pamphlet &quot;The smoking and health controversy...why more research is needed: a review of recent medical and scientific evidence presented to U.S. Congressional Committees.&quot; (^{134})</td>
</tr>
<tr>
<td><strong>1984</strong></td>
<td>Extensive dossier and writing by Dollisson on the 1983 – 1984 Western Australian advertising battle. (^{16,142,143})</td>
</tr>
<tr>
<td>Year</td>
<td>INFOTAB catalogued NMA resources, including those devised by TIA (contd)</td>
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<tr>
<td>1984</td>
<td>Videos on “Smoking and the non-smoker”; TVC from the Western Australian “Is it best for the west?” campaign; an introduction to the Tobacco Network; and slides on the TIA’s response to a NSW Health anti-smoking campaign.</td>
</tr>
<tr>
<td>1987</td>
<td>ETS materials including TIA Women’s Weekly inserts.</td>
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<tr>
<td>1988</td>
<td>TIA’s position paper on health warnings, described by Antoinetta Corti as the best written so far internationally.</td>
</tr>
<tr>
<td>1989</td>
<td>Youth programs in preparation for the next year’s world no tobacco day, to be focused on children and smoking, and highlighting early retailer campaigns.</td>
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</tbody>
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TABLE FOUR CONTINUED: RELATIONSHIP BETWEEN THE TIA AND ICOSI/INFOTAB

<table>
<thead>
<tr>
<th>TIA implemented programs devised by INFOTAB (contd)</th>
<th>TIA made presentations at INFOTAB meetings (contd)</th>
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</thead>
<tbody>
<tr>
<td>1980 Used ICOSI consultants on economics and advertising.(^{151})</td>
<td>1991 In 1991 Welch was invited to INFOTAB events but appears not to have contributed.(^{180,181})</td>
</tr>
<tr>
<td>1982 TIA tax campaign, similar to a UK programme, drew on INFOTAB materials.(^{182})</td>
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<tr>
<td>1984 – 1985 INFOTAB provided workshops to TIA. 1984 workshop was on “marketing freedoms”; TIA used INFOTAB material &quot;to great effect&quot; and promised to support South-East Asian NMAs on the subject.(^{18,183})</td>
<td></td>
</tr>
<tr>
<td>1988 – 1989 Participated in the international Glen Smith study of youth smoking.(^{184,185})</td>
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<tr>
<td>1989 INFOTAB provided advice to TIA re: the possibility of the industry taking action against advertisements for Nicotine Chewing Gum.(^{186})</td>
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DISCUSSION

The TIA, like any organization, was not static. Its perceived effectiveness, the personalities at the helm, its control base, and its culture changed substantially over its 19-year life. The TIA’s early days established important networks and paved the way for its heyday in the early-mid 1980s, when it presented a united front and won battles, inspired local manufacturers to cooperate, and connected Australia to the admiring international tobacco family. As a direct result of the AFCO vs. TIA case, it sank into disrepute and disarray for five years. Takeover by the industry’s lawyers and the elevation of Donna Staunton to CEO led to another active period in the early 1990s, when united industry positions were presented aggressively to decision makers and the public despite internal power struggles. Although the TIA still exists on paper, functionally it appears to have been replaced around 1997 by direct manufacturer cooperation on shared corporate affairs issues.

The focus of this chapter has been the issue of interconnectedness: between local manufacturers and between Australian and international industry bodies. Links between
local manufacturers, links formed by individuals, links to international tobacco organizations, legal links, and information links have been explored.

The TIA appears to have been comprehensively informed, first by INFOTAB and the USTI, and then by the industry’s international counsel, of developments in international research, advocacy, policy and litigation. The close involvement of the local manufacturers in the TIA, through individuals and through organizational structures, provided a conduit for this information to be distributed. The TIA also actively sought dissenting opinion, which it digested and made available to the manufacturers to assist them in perpetuating deception on active smoking and other issues, a task which mirrored and was supported by the efforts of their international informants. The local industry cannot claim ignorance of the science.

A case has also been made that the TIA linked the local to the international industry, in addition to specific links between local manufacturers and their parent companies. The local industry cannot therefore claim isolation from the international industry. In the 1990s, in particular, the local and international counsel of the industry appears to have been essentially running the TIA’s affairs on all but the most routine matters.

Finally, it appears that the manufacturers intended to cooperate through the TIA, and that the objects of their cooperation were not in the best interests of Australian consumers. Nigel Gray, leading Australian tobacco control advocate, has noted that the TIA always presented a united front, and may have done its best work behind closed doors, in its lobbying of decision makers.9 Internally, industry relationships appear to have been variably successful. Cooperation was apparently easier in the aggressive and confident 1980s, whereas post-AFCO, when legal involvement intensified and competitive issues were pressing, private dealings appear to have sometimes been fractious. However it seems that responsibility for the actions of the TIA, including its deceptive public statements, lies squarely with the manufacturers.

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CHAPTER FIVE SMOKING, DISEASE AND OBDURATE DENIAL: THE AUSTRALIAN TOBACCO INDUSTRY IN THE 1980S

INTRODUCTION

The purpose of this chapter is to describe the Australian tobacco industry's private knowledge and public communication about the disease effects of smoking in the 1980s.

The tobacco industry's responsibility to inform its current and future customers about the diseases caused by tobacco use is the most fundamental ethico-legal issue in tobacco control, central to questions of legal liability for sick smokers, and a vital underpinning for regulation of advertising, product labeling and other industry communications. Previous industry document research has concluded that tobacco companies deliberately denied what they knew about links between smoking and disease for fifty years, and engaged in a globally cooperative "smoker reassurance program." Publications supporting this conclusion focus on the US, German, and British tobacco industries.

Because of the transnational relationships of the local tobacco industry, the published international literature provides a relevant context for Australian document research. UK-focused document research has argued that BAT agreed privately from the late 1970s that smoking caused disease and that epidemiology was the appropriate discipline to investigate this relationship, in stark contrast to its public denials on both counts. Project Rio, a controversial BAT initiative "designed to organise the company's research on cigarettes having reduced biological activity" was reportedly active throughout the 1980s in the BAT laboratories in Hamburg, Montreal, and Southampton. Rio examined the mutagenicity of smoke, but produced more questions than answers, as well as legal anxiety about the potential US liability surrounding the scientific work of the larger BAT group.

The US environment was very different. Document research focused on the US has argued that although there was private industry agreement from the 1950s that smoking...
caused disease,\textsuperscript{3} little biological research was done, by agreement, because of the risk that findings would assist plaintiffs in litigation.\textsuperscript{3} Previous research suggests that in 1970, R.J.Reynolds was forced by other US tobacco companies to close its biological research program, which was demonstrating that smoking caused disease.\textsuperscript{3} Philip Morris International employed an alternative strategy, outsourcing much of its controversial research to offshore laboratories, to prevent legal discovery and allow rapid termination of projects showing dangerous results.\textsuperscript{3}

This chapter will review documents from the Australian tobacco industry related to questions of smoking and disease in the 1980s, a decade in which the Australian industry’s communication strategies were particularly aggressive. The findings will be most relevant to smokers who were old enough to absorb media messages during the 1980s and early 1990s: smokers aged approximately 25 and over in 2005. My analysis of the material I found on this issue has been organised into two broad metathemes. The first is what the Australian industry knew, particularly from its own research programs; the second is how the Australian industry communicated on the issue to various audiences. Conflict between the industry’s internal knowledge and external statements has the potential to be both legally and ethically significant.

RESULTS

The industry’s private knowledge

The context

In March 1978, the global BAT group held its research and development conference in Sydney, Australia. The first paragraph of the minutes read:

"there has been no change in the scientific basis for the case against smoking. Additional evidence of smoke-dose related incidence of some diseases associated with smoking has been published. But generally this has long ceased to be an area for scientific controversy."\textsuperscript{6}

By the 1980s authoritative public health pronouncements on smoking and lung cancer were more than two decades old, and the documents suggest that the Australian industry
was aware of the international consensus. The previous chapter demonstrated that information was distributed to the local industry by the TIA, and by INFOTAB, the international tobacco industry's information management organization. Shook Hardy and Bacon, the industry's outside legal counsel in Kansas, and BAT Co. had "data banks ... capable of keeping the industry abreast of developments on smoking issues," which the Australian industry could access.7 Australian manufacturers also attended joint industry activities such as CORESTA meetings.8 Appendix Five presents detailed document summaries in support of the claim that the local Australian industry was cognisant of the 1980s literature on smoking and disease.

**Research done by the tobacco industry**

The manufacturers did not rely solely on external research. R.J.Reynolds developed bioassays for testing the tumourigenicity of its products,9 produced critiques of unfavourable research,10 commissioned reviews of the published literature11 and cultivated links to university departments.12 It is highly likely that this work was communicated to R.J.Reynolds in Australia, but no "smoking gun" to prove this has been found in the documents. There is, however, evidence linking PML and WD&HO Wills to the disease research undertaken by their parent companies.

**Philip Morris research**

In the 1980s, the Philip Morris Corporation's in-house research facilities employed eight staff to critique published research and 80 in animal laboratories and cutting-edge cellular-level research facilities in Richmond (USA), Cologne (Germany) and Neuchatel (Switzerland).13 Applied product development was emphasised, including work towards low biological activity products. Richmond and Neuchatel provided research support to global companies such as PML. Basic research information from external sources such as the published literature, universities and biotech companies was organised by PM USA in a confidential database, and the PMI Corporate Affairs Department collected "up-to-date smoking and health related information" and circulated it to offices including PML in Australia.14-16 PML undertook product development research in its Australian headquarters at Moorabbin,17,18 liaised with PM's overseas research units and received copies of their reports, including reports on biological testing,19,20 and key staff made visits to the central research facility in Richmond.21
WD&HO Wills research

WD&HO Wills' managers labelled all corporate affairs reports "Smoking and Health," whether these addressed taxation, advertising, or social acceptability issues, suggesting that the disease effects of smoking were foremost in their minds. The BAT Group was connected by a GR&DC (Group Research and Development Centre) team, an international network of researchers which exchanged information via a program of regular meetings, correspondence, and visits. Although WD&HO Wills appears to have been a relatively small player in the group, with a local focus, Australia was considered one of BAT's six "Major R&D Centres." WD&HO Wills was also a "CAC company," that is, one of the companies that sent representatives to the BAT Chairman's Advisory Conference, and thus an active participant in decision-making.

The search for a "safer" cigarette and Project Rio

In 1980, BAT executives still hoped that the company's problems could be solved by the production of a "safer" cigarette. To this end, BAT was engaged in a million-pound a year biological research program. This program had two arms. The first was concerned with developing tests of mutagenicity, biochemistry and inhalation that would yield rapid results. The second was the much larger abovementioned Project Rio. Rio investigated the biological effects of smoke, and aimed to produce an "acceptable" cigarette that could be demonstrated to lower cancer risk and thus give BAT an advantage in marketing. WD&HO Wills contributed to Rio but seemingly also understood its potential dangers, recommending to the BAT GR&DC in 1983:

"A program has to be developed to handle Project Rio... This general area is an important one for the long term survival of the industry and as such we support it. About 12% of the research effort goes into this area. (It is the second largest area.) We would feel this effort is large but reasonable."  

The same year CAC companies including WD&HO Wills were instructed to concentrate on applied product and process research rather than basic research. WD&HO Wills' responsibilities within Rio were reduced to the testing of local commercially successful cigarette brands for their "relative mutagenicity." WD&HO Wills evaluated Hallmark,
Marlboro, Benson&Hedges and Winfield, and found that a WD&HO Wills “low tar” brand, Hallmark, was the cigarette with the highest mutagenic activity – an unfortunately common finding which was discussed at BAT Group meetings and in reports.24,31,35

Legal restructure of BAT research

Understandably, the group became anxious to distance itself from “dubious past research,” leading to a major restructure of Rio and direct lawyer involvement in “every step” of BAT’s smoking and disease activities.34,36 By 1985, the “commercial aspects” of Project Rio were pronounced complete, and reports prepared for individual participating CAC companies such as WD&HO Wills.35,37 Southampton used Rio data to draw conclusions about correlates of mutagenicity in BAT cigarette designs worldwide, concluding that features such as filter ventilation, still common in “light” Australian cigarettes, increased mutagenicity across BAT brands.34,37,38

For legal reasons, the drive to restructure BAT research intensified throughout 1985. The CAC laboratories were considered too “independent” and “inconsistent,” and WD&HO Wills was instructed to clear any BAT Co. documents “dealing with scientific and other potentially controversial issues” through the groups’ lawyers before release.29,39,42 In 1985 a new group-wide “research rationale” distinguished “product research (to be done internally) [from] smoking and health research (to be done externally) in future.” Basic research was further de-emphasised.29,43

The Scientific Research Group to monitor external research

“External” work to “determine the health consequences, if any, of smoking to the smoker,” was monitored by a new Scientific Research Group (SRG).43 The SRG was established in April 1986, with representatives from CAC companies, to advise BAT companies on the product development and policy implications of external research work.43,44 WD&HO Wills contributed tens of thousands of pounds to SRG-monitored work, although WD&HO Wills’ managers objected to paying an equal share of the costs of SRG activities relative to other CAC companies. WD&HO Wills also attended some SRG meetings.44,45

SRG members (including WD&HO Wills) appear to have been conscious of their responsibilities. In 1986 they noted that “current [legal] opinion indicates a clear duty to be aware of relevant scientific literature on smoke and health issues, and, if necessary, to
carry out appropriate research on the product and/or its effects on the smoker." The SRG reviewed the literature, identified gaps, commissioned and monitored external research, directed group companies on R&D issues, and met to hear presentations of the results of commissioned research. Presentations were generally on topics favourable to the industry such as the benefits of nicotine, and thus provided the SRG with "good news."46,47

WD&HO Wills' internal product research
From 1985 internal product research, focusing on potential regulatory challenges such as measuring smoke toxicology, was reviewed to increase international coordination, quality and reporting.43,48,49 Southampton "maintain[ed] a knowledge base on factors influencing specific constituents" and "provide[d] background on the opportunities for removing specific constituents." The role of operating companies such as WD&HO Wills was to "develop products with reductions in specific constituents" to capture health-concerned smokers in a shrinking market.49

It seems that WD&HO Wills remained a relatively minor player in the global research team50 but continued to study Australian smokers under the internal research program. In 1986 "a relationship was established" between WD&HO Wills and the Southampton GR&DC, "in which equipment for monitoring human smoking patterns was supplied [to WD&HO Wills] to support the research programme on smoke quality. Data collected [were] transferred instantaneously to R&D [Southampton, from Sydney] for duplication of smoking behaviour and determination of smoke component deliveries."48 WD&HO Wills also contributed financially to the centralised GR&DC research program, although their contribution was smaller due to their relatively lower volume of cigarette sales.51,52

The BAT research program winds down
As the 1980s wound down so did the BAT research effort: in 1989 the Southampton laboratory staff was slashed from 500 to 15012 and in 1987 BAT's lawyers reviewed BAT's central R&D files containing decades of work, a confidential exercise intended to be protected by legal professional privilege and not disclosed to third parties by R&D staff.52 Allegations that BAT engaged in systematic document destruction in Australia to protect itself from legal action have been made both in the courts and by whistleblowers in the media.53,54
The industry's communications

Internal strategies on smoking and disease

According to Mary Covington of INFOTAB, the early 1980s was a time of "definite change in the attitudes of the [international] industry, [from] ... a generally passive stance to an active approach on smoking issues." This appears to have been prompted by a realisation that two decades of relative silence on smoking and disease were eroding industry credibility. It seems that Australian manufacturers were no exception to this change. PML's corporate affairs department set out to "minimise the impact of unfavourable events arising from the smoking and health ... controversy" via a range of strategies including the use of political, advertising and journalism contacts. WD&HO Wills characterised the Australian industry as having a "policy," as follows:

"advocat[ing] strongly its right to do business in the market place, that the question of whether people smoke or not is a function of individual adult choice from a range of lifestyle options (of which smoking is merely one) and that further research is needed to help resolve the unresolved questions surrounding smoking and its possible relationship to human health."22

The 1980s through to the early 1990s appears to have been a period of intense, aggressive, obdurate denial, in the face of the industry's aforementioned private agreement that smoking caused illness.

There are many examples of internal communications defending smoking, suggesting that in the 1980s Australian industry employees and affiliates at all levels were indoctrinated with an official policy: that disease causation was still an unresolved question. A 1985 document from PML Legal Department files dismissed specific disease claims as unscientific. At a 1986 Annual General Meeting PML exhorted shareholders:

"the company does not accept that there is overwhelming scientific and medical evidence indicting cigarette smoking as the largest cause of preventable death and disease in Australia... a significant body of eminent
medical and scientific opinion does not hold that view... the true causes of the illnesses remain unknown... the tobacco industry in Australia has, through the Australian Tobacco Research Foundation, supported over 100 independently conducted medical research projects in Australian universities and teaching hospitals."61

At a 1984 meeting of the board of BAT Industries, major shareholder in WD&HO Wills' parent company AMATIL, directors were instructed:

"[this year] more anomalies have come to light to support the controversy on causation... despite 30 years of intensive research, no compound or group of compounds in cigarette smoke have been identified as having a causal link... As in the past, the only recourse for the industry is to undertake or support more research... possibly during the next five years and almost certainly within 15 years... smoking and health issues will be resolved, one way or the other."62

Into the late 1980s, BAT's meetings of its regional and national managers featured scientific presentations that denigrated statistics, highlighted apparent epidemiological anomalies, and rehearsed analogies that undermined the evidence against smoking.53-65 BAT's publications for staff, distributed to WD&HO Wills, included a booklet promoting low tar cigarettes and the company's research investment, a massive "Issues Guide" for corporate affairs management, and the detailed "Compendium of Epidemiological Studies," a three-volume work for scientists highlighting the "controversy."65-69

Internal conflict on smoking and disease
There is extensive documentation of turmoil within the BAT group on the nature of its public stance. In 1980 LCF Blackman, BAT's head of research in the UK, felt that

"other companies or industry associations... are... tending to over-state the 'causation is not proven' argument which we believe will not convince any audience - and will probably further reduce rather than raise the credibility of the Industry."70,71
BAT's corporate affairs, legal and research personnel worked for a whole year to find "ways of breaking out of the dilemma without prejudicing the legal position [of the industry]." This resulted in a proposal for a "new approach of open communication." The proposal was that BAT should "acknowledge (but...not accept) the strong body of opinion that smoking is associated with risk" and should promote its development of reduced risk products.

However the presence of an American company (Brown & Williamson) in the BAT group raised the spectre of US legal liability and Blackman's advice appears to have been quashed. WD&HO Wills opposed Blackman's position, at last in part because "parts of Dr Blackman's paper would appear to conflict with the propositions Widdup [Managing Director and Chairman of AMATIL] put to the Senate Committee [Inquiry into tobacco] five years [before]." Questions of product liability were not to become a serious threat in Australia until the end of the decade.

Communications beyond the industry

The documents suggest that Australian manufacturers, individually and through the TIA, implemented their policy of misleading the Australian public on smoking and disease. This was done via publicly distributed newsletters, advertising and interviews in news media, self-published books and pamphlets, medical conferences, and sympathetic publications such as the Australian Retail Tobacconist. The misrepresentation of the state of medical research appears to have been deliberate. As noted in Chapter Four, the TIA, in its information-management role, sought out the tiny body of work that dissented from medical authority and then concentrated these ideas in user-friendly form to promote to the public.

The Australian industry seems to have had scant regard for science when formulating these publications: in fact, twice during the 1980s even BAT was outraged by the inaccuracy of the Australians' claims. The TIA's 1983 pamphlet "The smoking and health controversy...why more research is needed," sent to parliamentarians, libraries and tobacco employees, was strongly criticised by BAT's researchers in Southampton. They called it unbalanced, simplistic, superficial and unconvincing, noting that it conflated evidence and opinion and ignored the published literature.
In 1985, the BAT Group was concerned about a WD&HO Wills position paper which proposed that "people dying from smoking-associated disease do so at a later average age than those from non-smoking-associated diseases." Their statistical consultant reviewed the paper and advised: "I am afraid that this paper is very naive statistically and the conclusions and implicit inferences to be drawn from them are in many cases unsound." He called it "deliberately antagonistic," and noted that the writer did not seem to understand the points that he or she was making.

There are many examples of the Australian industry publicly contradicting the scientific consensus. The TIA published a press advertisement in the Australian Financial Review entitled "Smoking. Let's be sensible about it" which insisted that tobacco control advocates were "implying] scientific certainty where none exist[ed]... [and] simplistically... blam[ing] cigarette smoking for various diseases and deaths."

Geoff Bible, then Managing Director of PML, promoted the policy in a speech to journalists where he encouraged smokers in the room to "take heart [because] your lungs are as pink and pretty as those of the non-smoker sitting next to you." Bible claimed that "thirty years ago, even twenty years, it was possible for an honest man to believe that smoking was the cause of all the ills that flesh is heir to." However, he argued, after spending $100m on research, the tobacco industry had not been able to find the "one ingredient" to blame that could be removed.

The documents also suggest that AMATIL (WD&HO Wills) were not only true to the policy of claiming more research was needed in the 1980s: their representatives were prepared
Duncan Fairweather, who managed Corporate Affairs at AMATIL and was also sometime spokesperson for the TIA in the 1980s, argued on Australian radio in 1984:

"our position on health is quite clear... we think there are some questions to be raised about the statements that are made by the medical authorities, in the meantime there's a lot more research needed. That's a standard position that the industry has adopted and everyone is well aware of it." 85

Many other examples of the Australian industry's consistent and aggressive support of the policy are presented in Appendix Five.

**Attacks on accurate information**

In addition to actively misleading Australians on disease, there are many examples of the industry opposing what it termed "anti-smoking propaganda." 86 The industry instituted a "policy of vigilance against attacks by its opponents, whilst taking further constructive initiatives to place them on the defensive." 87 Generally the industry's attacks demanded that messages be removed or demanded statistical or clinical substantiation of claims.

Health authorities, advocates, researchers and editors were targets of these attacks. They were conducted by the TIA or its lawyers, Clayton Utz, were sometimes supported by Don Hoel of Shook Hardy and Bacon or by PML, and sometimes were conducted via advertising industry contacts. Objections were made to public statements by individuals as well as government health promotion campaigns, directly and through regulatory bodies including the Advertising Standards Council, Federation of Australian Commercial Television Stations, Media Council of Australia and the Australian equivalent of the US Federal Trade Commission, the Trade Practices Commission, which received a series of complaints alleging that consumers were being mislead by statements on smoking and disease.

In some instances the industry's objectives were achieved: the offending messages were withdrawn by the self-regulatory agency in question. 88 The industry even considered taking
action against advertisements for nicotine chewing gum\textsuperscript{89} and in 1987 attacked the Medical Journal of Australia regarding the content of published research articles,\textsuperscript{90} a paradox considering the industry's continuing protestations about the need for continuing medical research. Further evidence of industry's monitoring and attacking of tobacco control is presented in Appendix Five.

**Impact on public opinion**

Throughout the 1980s the TIA continually monitored changes in public opinion about smoking.\textsuperscript{81} A longitudinal study commissioned by the TIA and conducted by the Roy Morgan Research Centre suggested that despite the industry's efforts, opinion from 1983 to 1990 changed in a way that was unfavourable to the industry. The report from the study suggested the following changes in agreement to statements provided by the researcher:

1. "smoking is bad for you even if you smoke only a few a day": increase in agreement from 75\% to 83\%;
2. "the medical profession is correct in everything it says about smoking being a cause of lung cancer, heart disease and other health problems": increase in agreement from 75\% to 80\%;
3. "the medical profession has exaggerated the risks of smoking": decrease in agreement from 28\% to 21\%;
4. "smoking helps some people handle situations in which they experience stress": decrease in agreement from 72\% to 63\%;
5. "people are sufficiently aware of health concerns and further government sponsored anti-smoking and health advertising would be a waste of public money": increase in agreement from 40 to 45\%;
6. "people should be constantly reminded that smoking is harmful": consistent agreement around 80\%.

Interpretation of such results is complex. It is difficult to judge how closely people's opinions correlate to their agreement with statements that are given to them, and such a research method is highly constraining, permitting participants only to agree or disagree, not to have a nuanced or changing opinion. Nonetheless, the industry certainly took these results to mean that their aggressive public communications strategies were not having the
desired effect. It is of interest that a diminishing minority of Australians agreed with the industry position on most issues, a minority which may in fact have consisted of smokers.

**DISCUSSION**

The documents strongly suggest that, in the 1980s, Australian cigarette manufacturers were continuously made aware of the international consensus on smoking and disease via both the TIA and their parent companies. Australian executives attended meetings where the diseases caused by tobacco were openly discussed, and had the research literature digested and delivered to them. PML was informed on PM’s international biological research program and visited PM’s Richmond research facility. WD&HO Wills helped fund and manage the BAT biological research program, tested the mutagenicity of Australian cigarettes before such activity stopped in 1985, and continued to study human smoking patterns and smoke component deliveries in Australian smokers beyond 1985.

Despite this knowledge, the Australian manufacturers’ policy throughout the 1980s was to argue that the question of a relationship between smoking and disease was unresolved and to advocate their right to do business and smokers’ right to smoke. Internal and external communications conformed to this policy. Considerable resources were devoted to cataloguing the research literature, which overwhelmingly implicated tobacco as disease-causing. Further resources were then committed to designing formal responses that sought to deny the case that had built against tobacco. So eager was the Australian industry to deny the disease effects of tobacco that at times BAT contended that it did not understand the science of its product. The industry also attacked public health advocates making statements on the relationship between smoking and disease.

Such conduct seems inconsistent with community standards, or even the standards of the business community. The Australian Chamber of Commerce and Industry (ACCI) is the peak council of Australian business associations, and the conservative voice of business in Australia. The industry’s actions clearly defy the ACCI policy on consumer protection, which states that “consumers ... have the right to expect... safety standards from goods and services purchased [and] protection from misleading and deceiving practices...”92 Given the apparent extent and deliberateness of the industry’s activities, it seems appropriate that the executives, the directors and the lawyers employed by WD&HO Wills
and PML from the 1960s and early 1990s should be investigated with respect to their possible liability under Australian law.

It may be that the industry's efforts were not highly effective in the general community. Nigel Gray, Australia's leading tobacco control advocate in the 1980s, has characterised the industry as largely ineffectual in public debates, and the lacklustre results of the industry's public opinion polls support his views. Newspaper editorials advocating for continued tobacco advertising at the time frequently qualified their arguments by stating that smoking certainly caused disease. The Advertising Age editorialised in 1983 that "the industry's credibility began its nose dive when Phil Scanlon, a spokesman for the major Australian tobacco company AMATIL Ltd., said on national TV that the tobacco industry believed smoking did not constitute a health risk," and noted that "the reaction against the ad [Smoking Lets be sensible about it] was enormous. Federal and State health ministers condemned the industry's attempts to deny that 16,000 Australian die every year due to smoking-related diseases and questioned the misleading presentation." According to an advertising industry spokesperson "Smoking: Lets be sensible about it" was a 'poorly conceived and executed non-event' which did the industry more harm than good.

However, when the TIA's Brian Gapes defended the production of the "Let's be sensible about it" advertisement, he claimed "a lot of smokers applauded our action." In 1984, Andrew Whist of PMI wrote with regard to Australia that "antismoking propaganda" was starting to persuade "even smokers" that it was an "undesirable habit." This is an important distinction, particularly given that the industry knew that committed smokers were more likely to support them on crucial policy issues. John Dollisson argued in 1986 at an international workshop: "Smokers and non-smokers are not homogeneous groups when responding to industry issues. The stronger the smoker's commitment to smoking the stronger their support on issues."

It is possible that the main objective of the industry's aggressive communication on smoking and disease was to maintain the trust of smokers already predisposed towards the industry's position, providing them with reasons to doubt the "anti-smoking

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h Gray N. Personal communication. 2002 November 29.
propaganda." Other quantitative studies, conducted by Australian public health researchers, have suggested that smokers are more likely than non-smokers to agree with statements like "the medical evidence that smoking causes cancer is not convincing" or "many people who smoke live to a ripe old age, so smoking is not all that bad for you,"96,97 positions constantly reiterated by the industry throughout the 1980s. The industry's opinion poll data suggested that a slowly decreasing minority continued to agree with their views in a decade when Australian smoking prevalence was also steadily decreasing.

A diminishing cohort of committed smokers may have been responsible for the diminishing 20 to 30% of agreement with the industry in their population-based opinion polls. Industry advocacy may have allayed smoker's latent concerns, provided seemingly plausible rationalizing life rafts, and ultimately, reassured them in their decisions to keep smoking. Today's sick and dying smokers, without any advanced epidemiological knowledge or skills in the critical appraisal of evidence, who now say "I heard lots of doctors and professors on the radio saying that there was actually no proof that smoking caused cancer" cannot be considered simply ignorant or ill-informed. Smokers who were the recipients of the industry's policy of obdurate denial deserve to know both about the disease effects of smoking, but about the efforts of the industry to deny these effects in the 1980s, ideally via a mass media public information campaign.

As discussed in the next chapter, in the 1990s, as product liability litigation in Australia became a serious cause for concern, some elements of the industry stopped arguing that there was no proof that smokers were at risk, and instead advised smokers that they should have listened to the public health authorities, and the responsibility for their illness was theirs. The industry's conduct suggests that its primary motivation in Australia in the 1980s, as with most corporations in most contexts, was its own financial survival. Despite privately accepting that the case for smoking causing disease had long been established, the industry vigorously denied this via its corporate affairs activities. This is important evidence for litigation by smokers exposed to such industry campaigns, and for advocacy against the industry.
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Page 100 of 260


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CHAPTER SIX THE TIA’S “ACTIVE SMOKING MEDIA STATEMENT”

INTRODUCTION
This chapter explores in detail a specific problem in corporate affairs from the early 1990s: the Australian tobacco industry’s desire to develop a joint statement on the disease effects of smoking.

This chapter builds on the history of the TIA in Chapter Four and the case made in Chapter Five that in the 1980s the industry was aware of the disease effects of smoking but chose to mislead consumers. In the early 1990s, the TIA needed to develop a coherent position on smoking and disease, acceptable to all the companies and consistent with their own positions, which would form the basis of its public statements. This problem led to a periodic struggle stretching from September 1991 to October 1993, arising from differing degrees of evolution in the companies’ corporate affairs policy on the issue of smoking and disease. The struggle illustrates the degree of control, particularly legal control, which tobacco companies and organizations exercised over corporate affairs strategies in the 1990s. It also shows the tenacity of some industry players in insisting that the industry continue to publicly deny, overtly or implicitly, the medical consensus.

RESULTS

The players
This episode involved many players from the manufacturing and marketing companies, the TIA, and various legal counsel. The main participants for whom evidence is available were, in alphabetical order:

1. Glen Eggleton, Clayton Utz counsel who began working for the TIA in the late 1980s;
2. Greg Fowler, counsel with Shook Hardy and Bacon Kansas, who came to Australia to work for PML and the TIA for a short period in the early 1990s;
3. John Gonzci, Rothmans Holdings Australia counsel, Chair of the TIA Legal Committee;
4. Stephen Klotz, TIA Counsel in the early 1990s who went on to join law firm Dunhill Madden Butler working on matters including tobacco;

5. Maria McCrossin, from Clayton Utz Sydney, the TIA’s external counsel;

6. Jerome Mostyn, transnational employee of the BAT Group in various markets from the 1970s, who was briefly at the helm of the TIA around 1992 and 1993;

7. Bob Northrip, Shook Hardy and Bacon, Kansas;

8. Ken Pimblett, who held multiple roles, including TIA Board and Legal Committee member, TIA Executive Project Officer, and R.J.Reynolds Australia staff member from the 1980s to early 1990s;

9. Donna Staunton, who moved from Clayton Utz to head the TIA and then on to the Philip Morris Group;

10. Chuck Wall, Vice President and Associate General Counsel Philip Morris Companies New York who had close involvement with the affairs of PMI; and


Detailed notes including reference to sources for information about these people are in Appendix Four.

**Episode one: three incommensurable positions**

In 1991, Ken Pimblett, Executive Officer Special Projects at the TIA, wrote to WD&HO Wills, PML and Rothmans, asking for their official positions on the relationship between smoking and disease. The intention was to use these to develop a coherent TIA statement concordant with all manufacturers’ positions. Pimblett’s request produced three disparate statements. These suggest two things: First that by the early 1990s, such positions were closely controlled by the ultimate parent companies; secondly, that the three organizations were approaching corporate affairs very differently in the new decade.

From WD&HO Wills, a position “approved by BAT Co.,” which appears essentially unchanged from the 1970s:

“In our opinion, science has not established that smoking causes disease and it is our view that further scientific research is necessary to address a number of inconsistencies in the statistical and biological evidence.”
From Rothmans, a statement which did not hark back to its previous calls for more research, but which specifically denied cause and emphasised that the association was "only statistical":

"Cigarette smoking together with other conditions and behaviours such as diet, genetic makeup, age, occupation and place of residence has been statistically associated with some kinds of lung cancer. Statistical association between a factor and a disease does not however mean that a cause and effect relationship between the two has been established, and current evidence has not established scientifically that there is a causal relationship between smoking and lung cancer."\(^2\)

From PML, the worldwide Philip Morris Companies position, and the most thoroughly modernised of the three, which acknowledged risk but not cause, and framed the decision to smoke as being entirely the responsibility of informed adults:

"The relationship between smoking and health is ... controversial. We have acknowledged that smoking is a risk factor in the development of lung cancer and certain other human diseases, because a statistical relationship exists between smoking and the occurrence of those diseases. Accordingly, we insist that the decision to smoke, like many other life-style decisions, should be made by informed adults. We believe that smokers around the world are well aware of the potential risks associated with tobacco use, and have the knowledge necessary to make an informed decision."\(^3\)

Understandably, Pimblett wrote to the manufacturers in October 1991:

"it is not conceivable that we could develop a uniform position [from the above]. Stephen Klotz [TIA Counsel] has discussed this issue with each of your legal officers who have no doubt reviewed with you. However, based on our current position we need to consider: 1. Do we still want to pursue a singular position that the TIA and industry can adopt? 2. If so, what
should it be? May I suggest we place this on the agenda for the next
Executive Committee Meeting and discuss."  

There is no record of a resolution in 1991.

**Episode two: the Q&A tightrope**

It was not until December 1992 that a position was apparently “settled” between Maria McCrossin, Jerome Mostyn, Glen Eggleton, and Bob Northrip, and was forwarded to the local and international offices of the manufacturers.  

It was formatted as questions and answers, and given Northrip's involvement, and his rising control of the TIA as documented in Chapter Four, it seems unsurprising that it reflected the Philip Morris group's position strongly.

Q: “Does smoking cause lung cancer?”
A: “There is an increased incidence of lung cancer among smokers compared to non-smokers – this statistical association is widely reported and well known.”

Q: “But does that mean smoking causes lung cancer – as it says on the packet?”
A: “It is a matter of scientific judgement as to whether or not a statistical association viewed with other research data should be classified as ‘causal’. Currently the government favours that interpretation. That is why the cigarette packet carries that warning.”

Q: “Does the tobacco industry concede that smoking causes lung cancer?”
A: “We don’t make that concession. However, we regard it as important that the community is aware of the reported health risks. It is a question of informed choice – an adult decision. That is why we are against juvenile smoking.”
Q: "Why has the tobacco industry taken so long to acknowledge that there is a risk?
A: For years the industry has denied that smoking causes cancer. It has said there is a 'controversy'." 
"For many years scientists vigorously debated and questioned the association between smoking and lung cancer. Over time the scientific community has grappled with a number of anomalies and other issues and now the government favours a causal interpretation. Even today the mechanism of cancer is unknown – the Nobel Prize is up for grabs for that one."

Q: "How big is the health risk?"
A: "You can’t generalise – the health of every person differs. There is still much to learn about the many risks we encounter in our daily lives... every day we make choices that can affect our life and our health..."

Q: "But 20,000 people die each year from smoking cigarette products."
A: "It is not an actual figure but a prediction from statistics."

Q: "So do you agree that people who smoke will die younger?"
A: "I do not believe that smoking can be isolated as the sole reason for premature death."

Q: "But how can you work for an industry which kills 20,000 people a year?"
A: "If I thought smokers didn't know there was a risk, I would be unhappy. But you don't give the public enough credit, they are well aware of the risks – there has been anti-smoking education in schools in Australia since the mid-1950s. People who smoke know the reported risks and are free to make an informed choice as to whether they wish to enjoy smoking or not."
Episode three: “the impressionable and unintelligent”

The resolution only held for three months. By March 1993, the position was apparently “unsettled” again. Donna Staunton, who seems not to have been involved in the first episode, started correspondence with Eggleton over the content of the statement.7 Eggleton's concerns for the TIA were twofold. First “to ensure that any statement TIA makes does not breach Section 52 of the Trade Practices Act”, which prevents conduct in trade or commerce that is likely to mislead or deceive. Secondly to ensure “that the TIA does not concede that disease causation has been established”.8 Given that public health opinion had settled on a causal relationship between smoking and disease some decades before, this challenge required semantic acrobatics of the first order. Eggleton's memo sets out a range of changes, exercising caution with regard to “the impressionable and unintelligent.”

“Alternative drafts were considered and abandoned in preference for the attached draft. For example, if the TIA chose to amend the draft so the third sentence read: “currently the government is in favour of a causal interpretation”, it could be argued that the TIA may create a false impression in the minds of an audience which includes the impressionable and unintelligent. Some members of the audience may be led to believe that only the government favours that interpretation, and not the majority of the medical community. By not mentioning the prevailing view of the medical community, the audience could be said to have been misled. Silence and/or omissions, can constitute misleading conduct [under the act].”9

By Mid-April, following further input from Northrip and Chuck Wall,9 Greg Fowler sent Staunton a statement revised into a Q&A format, apparently to be used by the TIA, that acknowledged "reported risks", emphasised that the community was well informed about the “predominant view of the medical community”, but also suggested that the medical community had not proven cause.10,11 In May/June 1993, Staunton attempted to mediate in a stalemate between Fowler and Mary Weir at WD&HO Wills over the semantics of acknowledging or denying risk.12-17 A resulting “approved” statement in late July acknowledged that smoking was a risk factor for “lung cancer and certain other diseases”
according to the "predominant opinion of the medical community", but not the opinion of the TIA, and emphasised that informed adults made their own choices.\textsuperscript{12,16,19} Fowler sent it to Wall, noting "although timid by standards of what PM and Rothmans would have approved, it is a positive triumph in that Wills at last approve of the 'risk factor' language."\textsuperscript{20}

\textbf{Episode four: "the full sum and substance of our opinion"}

The final chapter in the saga began three months later, when Clayton Utz advised Staunton that the "approved" statement was in fact written by Gonczi as chair of the TIA's legal committee and was not cleared as stated. Clayton Utz again expressed concerns with regard to Trade Practices law, advised against making a statement about disease generally rather than about a specific disease, and worried about the TIA's apprehension of the literature and even their honesty, raising the spectre of another AFCO:

"We believe it is incorrect and therefore inappropriate to concede that the predominant opinion of the medical community is that a causal relationship has been shown in respect of all diseases associated with smoking... The final sentence of the first paragraph which states 'The Institute does not share this view' may be argued to constitute a misrepresentation. In our view the sentence represents that: the Institute has an opinion concerning the question of whether smoking is causally related to a range of diseases including lung cancer; the Institute's opinions in respect of all of these diseases differs from the predominant view of the medical community; the Institute's opinions are rationally based upon all of the information available;... the Institute honestly holds these differing opinions. We believe that the Institute would wish to avoid such an argument being raised against it by an opponent such as AFCC."\textsuperscript{21}

It is not clear whether the TIA ever agreed on a final position. The last document found appears to be a memo from Greg Fowler at PML in response to Clayton Utz's recommendations.\textsuperscript{12,22-24} Fowler's "proposed" statement removes references to diseases other than lung cancer, and does not speak for 'medical opinion' as the original statement
did, but it continues to simultaneously hide behind and undermine the “opinion of many in the medical community”, and squarely lays the blame on informed smokers:

“We acknowledge that smoking is a risk factor for lung cancer. This is because of the epidemiological studies which suggest a statistical association between smoking and lung cancer. Because statistics alone do not prove cause and effect, we believe that there is still room to debate whether smoking has been proven to cause lung cancer. The causes of origins of lung cancer are complex and there remain numerous unresolved scientific questions including identification of the mechanism by which lung cancer occurs. We believe the public is well aware of the reported risks associated with smoking. This awareness is due, in part, to the widely publicised opinion of many in the medical community, government health warnings on cigarette packages and so forth. Smoking is and should be an adult custom. Adults are able to make an informed decision whether or not they wish to smoke. As I have said, we acknowledge that smoking is a risk factor and that is the full sum and substance of our opinion concerning the reported relationship between smoking and lung cancer.”

DISCUSSION

The industry’s positions on the “primary issue” have evolved further since these events. As noted in Chapter One, Rothmans no longer has an interest in the Australian market. The contemporary differences between PML and BATA are not dissimilar to the differences that made trouble for the TIA more than a decade ago. As discussed below, the Philip Morris position now concedes causation and encourages people to quit, while the BATA site concedes only risk, and continues to include information that obscures the health evidence.

PML no longer has its own Internet presence. The “Australia” pages on the PMI website are devoted to staff recruitment only. Corporate affairs issues have been completely centralised in the PMI main site, which presents a range of differing views from external sources on “smoking and health”. Its summary, however, is distinctly different from the policy a decade ago:
"Cigarette smoking is addictive. It can be very difficult to quit but, if you are a smoker, this shouldn't stop you from trying to do so. Cigarette smoking causes lung cancer, heart disease, emphysema and other serious diseases in smokers. Smokers are far more likely than non-smokers to develop diseases such as lung cancer. There is no such thing as a "safe" cigarette."25

British American Tobacco Australia has its own website. The look and feel, and most of the content is very similar to that of its parent BAT PLC. BATA's site also contains links to public health resources, along with the following summary statement:

"At British American Tobacco Australia, we believe that with smoking comes real risks of serious disease... We strongly believe that smoking should only be for adults who are aware of the risks. We agree with the public health community that the health impact of smoking should be reduced, and as a responsible company, we are committed to working with others to try to do that. Our views on the health risks are largely driven by the epidemiological studies. Epidemiology is a statistically based science, dealing with risks among large groups of people, rather than with individuals... Over many years, epidemiological studies have reported a higher incidence of certain diseases among smokers compared with non-smokers... laboratory investigations over the years have proved more problematic, and science has not to date been able to identify biological mechanisms which can explain with certainty the statistical findings linking smoking and certain diseases, despite many years of effort. Science is still unable to determine which smokers will get a smoking related disease and which will not. Nor can science tell whether any individual became ill solely because they smoked. This is, in part, because all of the diseases that have been associated with smoking also occur in life-long non-smokers. The lack of complete understanding at a biological level does not throw doubt on the statistics, which are strong. It does, though, provide uncertainty to efforts to design less risky cigarettes. Since the initial epidemiological studies were published in the 1950s and 60s, the working hypothesis of much of the research conducted within the British American
Tobacco Group, has been that there is a link between smoking and certain diseases, and such scientific research has focused on attempts to assess and make potentially less hazardous products. Given that these statistics show the greatest risk in groups that smoke heavily for many years, a sensible hypothesis has been that the less smoke that someone takes over a lifetime, the less the risk. In our view this, in cigarette design terms, suggests that lower tar cigarettes should be seriously considered as having a role in reducing risks.\textsuperscript{26}

All of the above text is also on the website of BAT PLC. Curiously, however, the Australian site is missing one crucial paragraph that is placed prominently on the BAT PLC. site:

"Put simply, smoking is a cause of certain diseases. This has been the working hypothesis of much of our product modification research, has been believed by smokers for decades and is the most appropriate viewpoint for consumers and public health authorities.\textsuperscript{27}"

There are a number of lessons to be drawn from this account. First, it is an excellent illustration of the Australian industry's continued intention to cooperate on corporate affairs matters. Secondly it shows that the intention to cooperate does not always produce cooperation. Thirdly it suggests that tobacco companies do not behave identically. Whatever its motivations, and whether or not it actually reaches smokers, PML in particular has been and remains ahead of its competitors in making frank and transparent statements. Fourthly this chapter underscores the complexities of the transnational nature of the Australian industry. Certainly during the episode examined here, responsibility for serious, legally delicate matters was referred to ultimate parent companies rather than being exercised at a local level, and the bulk of the text used to position the companies continues to come from lawyers at international head offices. I would propose, however, that BATA's current rejection of its parent's cause clause cannot possibly be accidental, suggesting a certain level of variation is tolerated even on important matters in some contexts. It seems possible that the fact that BAT has been in court over active smoking in Australia recently may have informed this omission. Finally, the detailed to-ing and fro-ing between the players in this story suggest that the industry's motivation in the early 1990s was a desire to avoid legal liability rather than genuine concern for its customers. The
medical community's position had been clear for many decades. Industry executives' continued legal hair-splitting on an issue that was epidemiologically plain is consistent with the overriding motivation of most TNCs, as suggested in Chapter Two, to protect profits for shareholders in a shrinking market, whether by sustaining customer loyalty or preventing catastrophic litigation payouts.

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CHAPTER SEVEN FROM LEGITIMATE CONSUMERS TO PUBLIC RELATIONS PAWNS: THE TOBACCO INDUSTRY AND YOUNG AUSTRALIANS

INTRODUCTION

The purpose of this chapter is to describe the efforts of the corporate affairs departments of the Australian tobacco industry and their international parent companies on the issue of youth smoking.

Youth smoking is the focus of extensive research nationally and internationally, driven by a fundamental tenet of tobacco control: that most smokers become addicted as teenagers, before they are able to consent, and that the tobacco industry has worked to ensure that this continues. Recent research has concluded that the most likely age for transition to regular smoking in Australia is 14,1 and that smoking by Australians aged under 18 supplies $AUD18.7 million in sales to the tobacco industry, $AUD18.7 million to retailers and $AUD87 million to the Australian government in taxation every year.2 International research has recorded the tobacco industry's explicit targeting of young people with market research, product design, and marketing strategies including advertising and pricing.3-6 In response to the problem, both tobacco control and the tobacco industry have created "youth smoking prevention" campaigns of varying effectiveness. The literature particularly criticises industry-funded programs.7-12

The traditional emphasis on youth in tobacco control policy has been challenged of late, authors suggesting that it plays into the industry's hands and diverts resources from more effective adult programs.13,14 Programs intended to prevent young people from buying cigarettes in shops and school-based education have been most criticised. It has been suggested that programs limiting access to cigarettes in shops, which set legislated age limits for tobacco purchase and penalise retailers who do not comply, may be more likely to influence teen purchase rather than to reduce smoking prevalence,15-17 and there is also limited support for school-based programs in the literature.15,18-22
This chapter will explore two aspects of the tobacco industry's relationships to young Australians. First, marketing to young people, and secondly strategies from corporate affairs departments about young people. These two inter-dependent aspects of the industry's youth programs are presented together in a chronology to argue that Australian legislation and rhetoric on youth and tobacco has changed dramatically over the course of the last fifty years. The industry engaged in an unproblematic association of teenagers and smoking in the 1960s, aggressively attacked and denied in the 1980s, and then in the 1990s became newly compliant with "societal expectations" and began using the youth issue as a dominant bargaining chip in its corporate affairs management strategy.

RESULTS

1950 to 1990: From legitimacy to battleground

In the 1950s and 1960s, cigarettes were advertised during children's television programs and in teen magazines and the industry openly encouraged tobacco retailers to pursue young smokers as a valuable future market. It was only in the 1970s, when Australian tobacco advertising was threatened by its perceived influence on children's uptake of smoking, that the industry began to attempt to dissociate tobacco advertising from children, consistently arguing that "all known research" showed that cigarette advertising had no influence. An Australian study published by the NHMRC in 1969 was used as evidence for this proposition for 20 years, despite the fact that it was not designed to examine any relationship between smoking and advertising.

The aggressive 1980s

Chapters Four and Five illustrated the particularly aggressive nature of the Australian tobacco industry's communications in the 1980s. In this decade new arguments on youth also emerged. The NHMRC study, which did show that peers and parents were important in children's smoking behaviour, was used to justify a shift towards blaming others for youth smoking, including parents, peers, siblings, retailers, government, tobacco control and youth themselves. In addition, the industry began to claim that youth smoking was
merely "experimentation", that youth shouldn't smoke, and that smoking was a "mature" pastime appropriate only for adults.29

Chapter Four argued that in the 1980s the Tobacco Institute of Australia (TIA) had a respected and central position in the worldwide tobacco family. In closed industry meetings the TIA argued dismissively that "children are the most over-protected of all consumers... [they] are being used as a major weapon in the anti-tobacco groups' fight to remove tobacco advertising and make smoking socially unacceptable – their aim is a smoke-free generation by 2000, or to put you and your companies out of business,"30 a position which informed and was informed by the rhetoric of Philip Morris International (PMI),31 and INFOTAB.32

A key promoter of these arguments was Glen Smith, ex-patriate Australian and director of the "Children's Research Unit" in London, who had been recruited to the industry by Bryan Simpson, the TIA's inaugural director. Smith appears to have supplied two ironically conflicting services to the TIA and its international counterpart INFOTAB. The first was "criticism on demand" of tobacco control research. Smith's standard accusations were that public health studies had "methodological deficiencies reminiscent of a Swiss cheese"33 and were hopelessly naive in their approach to children.34,35 Secondly, as documented elsewhere, Smith conducted a large, ongoing study for the industry explicitly designed to show that advertising did not influence children's smoking.36,37 The study led to peer reviewed publications, monographs, and international presentations. The Australian segment of the "study" was completed in 1983 and 1984, fronted by a third party to cloak the industry's involvement.38-40

Smith was named as an "invaluable" witness and lobbyist in Australia in a report on an INFOTAB meeting41 and by his own report promoted his study to parliamentarians and the Australian media at a cost to the industry of UK £1000 a day.42 In 1988 Smith attempted to convince the TIA of the value of repeating the 1983 and 1984 work, assuring them that it would provide the results, and thus the publicity, that they wanted,43 but it seems he was unsuccessful in meeting the TIA's precondition for funding: that he acquire the endorsement and preferably financial support of state governments.44-47 After the apparent end of his financial relationship with the industry, they continued to quote his work until the
late 1990s. Smith has continued his career as a youth research specialist servicing controversial industries.

Regulatory battles in the 1980s

The confrontational 1980s produced both wins and losses for the industry. Paul Hogan, iconic Australian actor, was removed from advertising for a major Australian youth brand, Winfield, through advocacy,48 and in the State of Victoria most tobacco marketing activities were banned by a far-reaching bill achieved through meticulous tobacco control lobbying, despite the industry's counter-efforts.49 However, the industry was more successful in other states, particularly Western Australia where extensive lobbying by the TIA and the manufacturers produced results including a major defeat of a bill which proposed banning tobacco advertising to protect children. This victory was considered important enough to be studied by tobacco companies in overseas markets: the local industry attributed their success to a late and convincing performance by Smith in the Western Australian Parliament, political factors, and the focus and discipline of their campaign relative to that of the opposition.52

Active industry targeting of young Australians in the 1970s and 1980s

Consistent with activities overseas, and in contrast to its public position, many documents from the 1970s and 1980s support the contention that the tobacco industry took an active commercial interest in Australian teens and young adults. WD&HO Wills and PML both studied 13 to 17 year old Australians in the 1970s for the purposes of increasing sales.53-55 Documents from the 1980s also contain explicit statements that young people are "the recruitment market," and research focused on these "starters."56-60 In the 1980s PMI also defined 18 to 25 year olds the world over as the company's "Key Target Group,"61 commissioning research to better understand differences between young adults from different countries.62

An important event illustrating PM's worldwide targeting of young people is the unprecedented failure of Marlboro, PM's global flagship brand, in the Australian market. Marlboro's failure was explicitly defined as a failure to market successfully to new smokers:

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1 Gray N. Personal communication. 2002 Nov 29.
Winfield, an "Aussie" brand, had attracted the bulk of Australian starters away from Marlboro from the mid 1970s. Chapter Nine explores the failure of Marlboro in more detail, interpreting it not only in terms of Marlboro's poor fit with the distinct Australian brand categories operating at the time, but suggesting that during the difficult economic times of the 1980s, Winfield's egalitarian, value-for-money, "Aussie" branding was more attractive to Australian youth than the premium-priced American cultural imperialism of the Marlboro Cowboy. This inability to attract Australian youth meant that Marlboro's 31% share of new smokers in 1972 had fallen to 1.5% by 1986, in contrast to Winfield's 45% share.59

The crisis was such that, for ten years, PMI and Leo Burnett USA participated in and often controlled the attempts to find a solution, and the resulting memos speak clearly of the need to target Australian teenagers. It was agreed that "the key problem" was Marlboro's "lack of appeal to younger smokers,"63 and "rejection ... by first time smokers."64 As Leo Burnett USA noted, nearly half of Australia's population was under 25 years old, 23% under 15, and 'given [their] predisposition to try/adopt new brands, this segment represents significant market opportunity.'65 PMI worried that attempts since 1976 to "reintroduce vitality to the Marlboro brand among new smokers" had been so unsuccessful that Marlboro had "virtually no new smokers." Marlboro's branding did not "appeal to non-smokers with a future disposition to smoke when they are forming brand preferences."64 The proposed solution was to develop "advertising concepts that are capable of competing with Winfield during the critical [two to four] year period where brand selection is made by people who are disposed to smoke later."64 Much tobacco control research suggests that this two to four year period occurs in adolescence.1

The 1990s to the present: from battleground to "societal alignment"

In the 1990s, as in other developed countries, the Australian industry's youth strategy appears to have changed substantially. Instead of fighting, manufacturers began to seek "a license to operate"66 by achieving "societal alignment",67 that is, by cooperating with perceived community standards. Youth programs were the first pillar of the industry's new emphasis on reframing themselves as responsible, both globally and in Australian society.33,68,69 As elsewhere, voluntary codes, retail access programs, and school education programs have been used to achieve this reframing. These have occurred in
parallel with continuing targeting of "young adults" in marketing, as demonstrated in Chapter Ten, despite the manufacturers and the TIA insisting throughout the 1990s that youth should not smoke and that marketing was not targeted to and did not influence youth. The majority of the relevant Australian documents available from the 1990s are from PML or its parent companies, and this is reflected in the following discussion.

**International codes of practice**

In 1991 the Philip Morris group began ongoing work on a PMI marketing code of practice. This involved PMI’s presidents and vice presidents, senior counsel, regional presidents, field marketing staff, and senior management at PM Corporation. The code was intended to be used, particularly in lobbying, to gain a corporate affairs advantage by promoting PMI as responsible towards youth, and to simultaneously protect PMI’s ability to be "competitive and creative" in its marketing. After many redrafts the code was distributed, including to PML, with memos insisting that it be implemented.

Initially PMI planned to keep silent about the code’s existence, storing it up as ammunition in case of a regulatory threat. This softened over time, such that PMI shared it with other companies to encourage them to develop similar codes, and allowed PMI staff to refer to it in a general sense. Staff were not, however, to release it in full to other parties, as this would "[encourage] the outsider to police our activities and interpret the code when these responsibilities belong with the company itself." The public version of PMI’s youth policy was instead encapsulated in a brochure, entitled "A global commitment to responsible marketing", for "legislators, journalists and decision makers from around the world," intended to show that advertising did not cause youth smoking, and that PMI, with their marketing code, were the industry leaders on the issue and did not need to be regulated further.

Simultaneously, in Australia, PML was developing a corporate affairs management plan intended to regain PML’s control of its operating environment in the face of massively declining social acceptability and wide opposition. This strategy was formulated by Matt Winokur, long time PM executive who at the time was Director of Corporate Affairs for PMI and was also chief architect of the PMI voluntary marketing code. Along with more sordid lobbying activities, such as undermining the Australian Ministerial Council on Drug Strategy
by convincing State Premiers that the Council was usurping them, and creating “political capital” by getting inside Australia’s “political machinery”, PML’s reputation was to be reconstructed in part by a “[program] against youth smoking which goes beyond what is required.” This was in response to research showing the potential value of the youth issue for the industry’s public image.

The primary objective of the Australian industry’s youth campaign appears to have been the creation of “political capital” with politicians and third parties to enable the industry to counter political challenges. The youth issue has provided an excuse to approach the media, decision makers and interest groups with “good news,” as in the July 1998 self-congratulatory “Report to Federal and State Politicians: Philip Morris Addressing Underage Smoking in Australia.” The industry’s policy platform on youth also provides an immediate alternative to offer when challenged with more prohibitive regulation.

Access to cigarettes in shops in the 1990s

Files from PM’s Worldwide Regulatory Affairs offices contain notes on conferences where programs designed to stop young people buying cigarettes were criticised as counterproductive. It thus seems reasonable to conclude that some staff within PM understood the weaknesses of these programs.

However a large number of documents exist detailing continued efforts from PM to sustain these programs internationally. In response to US regulatory pressure in the mid 1990s, PM USA formed an “access taskforce” which created the US Action Against Access (AAA) program. It simultaneously created a problem for PMI executives around the world, who were keen to avoid similar measures. Repeated shareholder efforts to force PM Corporation to implement AAA in developing country markets appear to have been deflected through the efforts of PM executives, mainly wielding the PMI marketing code. PML’s assessment was that “it is only a matter of time before the Australian anti-smoking movement calls upon Philip Morris Australia to adopt all the measures of the AAA program... it will not be easy for us to distinguish ourselves from Philip Morris USA’s adoption of the AAA program on the basis of difference in market, culture and practices.” PML suggested that, if pressed, only voluntary codes would be entered into, as it was too
easy in "the hostile Australian environment" to "lose control over the progress and content" of legislation.97

A PMI Access Taskforce, including Australian representation, was formed in 1995, and along with Burson Marsteller and its parent Young & Rubicam, wrote a "strategy" which aimed to position PMI as an international leader by building the issue of youth access to cigarettes in shops as an international "brand", like a "global cigarette brand." It noted "[this is] a key global program that is central to ensuring the long term growth of the company."98 The strategy used many of the techniques commonly used by corporate affairs departments, including development of arguments and allies, monitoring the opposition, and lobbying,98 all based on the fundamental principle that "PMI cannot be held reasonably responsible for ensuring that no minor smokes."99

The Australian industry had access programs in place from the successful 1983 battle against Western Australian advertising bans onwards.31 These early rudimentary signage systems evolved incrementally into the 1993 program It's the Law. Similar to access programs elsewhere, it was promoted by PML sales representatives and supported by an associated lobbying and media campaign.100 Since then it has been regularly relaunched and subtly re-branded, promoted to tens of thousands of retailers, used to forge links with third parties such as retailer associations, promoted to politicians, and via the general news media, publications for retailers and publications for specific cultural minorities, and has been expanded into helplines, campaign kits and training videos.87 In its current incarnation, it includes point-of-sale signage and billboards, jointly funded by the three manufacturers, providing a rare opportunity for "Australian Tobacco Companies" to raise their profile with the public in a highly restricted marketing environment.101·103

It's the Law also provides the industry with additional bargaining power with the group that a senior PM executive described as its "natural constituency", that is, their retail and wholesale customers.104 Chapter Eleven demonstrates the heightened power and importance of the retailer in Australia's dark marketing environment. The industry has, on occasion, remonstrated with retailers over their role in underage cigarette sales.105 However it has more often expressed concern about policies regarding sales to youth intruding on retailers everyday business. distanced itself from any policing role, and
reassured that because the industry understands that retailers are responsible, it has provided It's the Law to assist them.\textsuperscript{97,106}

**Youth school programs in the 1990s**

The Australian industry's ongoing youth program also features school-based education, as in other markets. In Australia it has been spearheaded by a conservative "educationalist," Dr Kevin Donnelly. He has strong connections to the conservative Liberal Party and to the private school sector, and frequently editorialises on educational policy as an "independent consultant." His consulting group, Education Strategies, developed an Australian schools program based on a South American program Yo-Tengo, which translates as I Have. "Intensive [Australian] research among practicing teachers, and actual classroom application" resulted in an amended program, launched in 1998, entitled "I've Got the Power."\textsuperscript{107} It was designed for secondary schools in Australia and New Zealand, and subsequently expanded to an Indigenous and a primary school program. As with other similar programs, tobacco was not prominent, and was presented in the context of decision making, not health: in Donna Staunton's words, the program "assist[ed] children to make responsible lifestyle choices with regard to a range of things that adults believe children should not do."\textsuperscript{107}

In the printed version of "I've Got the Power" PML's funding was not formally acknowledged, and many of the available documents on the issue are correspondence between PML and PMI negotiating the conditions under which this could happen. Although PMI policy was to always attribute PM's backing of such initiatives, PML warned that in the hostile Australian environment, this would result in widespread rejection of the "I've Got the Power."\textsuperscript{107-110} The appropriate response was decided by Worldwide Regulatory Affairs. First, PML should "get a letter from the government along the following lines: We are aware that PM is supporting Education Strategies in the development of the "I've Got the Power" program, and we applaud your efforts to help underwrite an education program to help youth make smart choices avoid peer pressure etc. We do not believe it would be effective for a program such as "I've Got the Power" to be used for public relations or corporate identification purposes and we would therefore ask that you refrain from putting PM's name on the materials."\textsuperscript{111} "Government officials" should then be advised of PML's investment, via a letter drafted by Worldwide Regulatory Affairs and the aforementioned lobbying.
document “Philip Morris Addressing Underage Smoking in Australia.” Then the kits could be printed without PML’s funding being attributed. It is not clear from the documents whether this strategy was implemented in full.

Although Donnelly’s association with PML continues, attempts to garner publicity for the program in Australia are consistently dogged by controversy, to which he consistently responds that “I’ve Got the Power” is not about smoking and was developed independent of Philip Morris.

**Late 1990s: “new day”, new cooperation?**

In February 1998, Geoff Bible’s made a speech before the US Senate Commerce Committee, referred to as the “new day” speech. In it Bible made a commitment on behalf of PM companies to minimum age laws, youth access programs, anti-smoking education programs, product labels against underage usage, and limits on cigarette marketing. The speech initiated a new phase of activity at PMI on the issue of smoking and young people. This activity again took the basic position that marketing freedoms must be protected. PMI personnel argued, “we must be seen to be acting responsibly and not [be seen to be] to blame [for the fact] that kids do smoke. We do not have a role in why kids smoke, and we cannot control kids from doing so.” A new “Global Commitment in Support of Youth Smoking Prevention” and new processes, guidelines and meetings resulted, making “youth smoking prevention” (YSP) an ongoing international project which included Australia.

These activities created a problem of which PMI personnel were keenly aware: that the company could create rules for itself more stringent than those of its competitors, particularly given that these personnel apparently believed that “BAT and local competitors are not going to play this game: they do not see the world this way”. In 1998 PMI went into negotiations with R.J. Reynolds Tobacco International and BAT, after which the PMI team were “hopeful that we will be able to implement a greatly expanded joint international industry youth access and marketing code to which all major industry participants will voluntarily adhere.” PMI staff created two lists of possible concessions in preparation for the meeting: those PMI would make unilaterally versus those which would only be made if forced or mutual, that is, those which they considered potentially damaging.
to their competitiveness. The result was a set of "International Tobacco Products Marketing Standards" signed by the parents of both PML and British American Tobacco Australia, along with other companies.

On its corporate websites, PMI presents these standards as a necessary control of their competitors; BAT presents them as exciting progress in the area of YSP. In contrast, Credit Suisse Equity Research/First Boston advised on the release of the standards, "we... believe that the multinationals' strategy is proactive and is a way to improve their image...[possibly to] counter a number of proposals that the WHO has been working on... in many countries the existing laws or industry codes are already more restrictive than [these] standards... we believe the [modest savings resulting from changed marketing practices] will be redirected into other types of marketing promotions i.e. point-of-sale activity." The Altria and BAT groups continue to promote their responsible investment in YSP in their social reporting and at annual general meetings.

Shifting the blame

Some documents suggest that, in parallel with these cooperative social programs, the industry is simultaneously blaming others for youth smoking where possible. When Philip Morris Corporate Affairs discussed "Youth: a corporate strategy that applies to food, tobacco and beer" at a 1995 world conference, it noted "Key issue: individual responsibility. Put the onus on kids, parents, teachers, retailers, legislators/regulators." Many documents from the 1990s, as in the 1980s, blame "parents and peers" for youth smoking, and this appears to be a central strategy for Altria. In 2002, Geoff Bible, then CEO of PM Corporation, told shareholders that "most young people don't buy cigarettes, they get them from loose packs left lying around by adults," urging adults to be "more careful", and new mass media YSP programs were planned to focus on parents' responsibilities. Young smokers themselves have also been blamed, as evidenced by PML's 1998 proposal to Australian government that they work with industry to "investigate the feasibility of making it an offence for underage youth to purchase tobacco."

DISCUSSION

This chapter has discussed the development of youth strategy within the tobacco industry in Australia and in the parent companies of Australian manufacturers. It has proposed a
changing relationship between the Australian tobacco industry's above-the-line marketing and corporate affairs programs over the decades. It is useful to think of this change as a simple switch: from the 1950s when above-the-line marketing to children was unproblematic and thus corporate affairs management was not needed on the issue, through to the 1990s when above-the-line marketing to children was no longer socially acceptable, so complex and extensive corporate affairs management programs were needed to control the potential threat to business and profit. The industry's continuing active engagement in the development of voluntary codes, It's the Law and "I've got the power", along with its "social reporting" suggests that the companies intend to continue constructing themselves as responsible towards teenagers, particularly when communicating with government and retailers. The manufacturer's internal documents suggest a parallel intention to shift the blame for youth smoking onto alternative scapegoats, particularly young people and their smoking parents, while distancing the industry from responsibility.

There is no doubt that Australian cigarette manufacturers have marketed deliberately to teenagers in the past. However, as the pressure to maintain a good corporate image on the issue has grown, overt evidence of the industry marketing to youth under 18 has faded. Instead, as seen earlier from PMI's 1989 meeting, the 18 to 24 age group has been defined as the industry's "key target group." Chapter Ten details some of the strategies used to target this all important consumer group. It is of interest that in BATA's 2002 Social Report, an ostensibly responsive exercise based on research in which stakeholder defined youth as "people under the age of 25", the company committed only to "reducing the supply of tobacco products to people under 18 years of age."142

John Dollisson claimed that "children [were] being used as a major weapon in the anti-tobacco groups' fight to remove tobacco advertising and make smoking socially unacceptable,"30 and it appears that the companies may have learned from the strategies of tobacco control, using children as a symbol in their fight to protect the tobacco market and sustain the social acceptability of smoking. Tobacco control has in some senses played into the companies' hands, allowing them to argue, as Bible did in 1995, that "we stand ready to work with anyone who truly wants to address this issue,"98 the subtext being that anyone who is caring, responsible and serious about youth smoking, like Altria, will cooperate with the company's agenda. In the age of Corporate Social Responsibility
programs this is a potential upper hand. Traditional accusations that the industry markets to children are less powerful now, particularly in the Australian market where any form of promotion is illegal. Based on this analysis, I would propose that the key frame through which tobacco control can target tobacco corporations on the issue of youth smoking is now not their marketing programs, but their corporate affairs management programs, in particular their efforts to reframe the debates in their own favour while laying the blame elsewhere.

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CHAPTER EIGHT MONGOVEN, BISCOE & DUCHIN: DESTROYING TOBACCO CONTROL ACTIVISM FROM THE INSIDE

INTRODUCTION

The purpose of this chapter is to present another detailed example of corporate affairs management. This chapter focuses not on an issue but on an organization: Mongoven, Biscoe & Duchin (MBD).

MBD is a specialist consultancy firm based in Washington DC that provides services to the corporate affairs departments of large organizations. MBD's partners and staff specialise in advising corporations and governments on issues that threaten their image or profits. The company does not engage in public communications under its own banner, and do not have a website, deliberately maintaining a low profile. Thus MBD is less well-known than companies such as Hill & Knowlton, Burson Marsteller, or Edelman PR Worldwide. There is a global industry of firms who help others manage the strategic and communication challenges presented by activists and consumer groups. Within this industry MBD appear to play a particular role: as intelligence-gatherers and advisors based on that intelligence. They help transnational corporations and governments to pre-empt and contain potentially damaging activism, through advice and practical, logistical support. MBD operatives have infiltrated a range of groups and processes on behalf of their clients. This chapter will discuss tobacco industry documents that demonstrate the role MBD has played on behalf of both the PM and R.J.Reynolds groups of companies, intended to damage tobacco control efforts including the recently completed FCTC process.

Background from the Center for Media and Democracy

Previously, only the US-based Center for Media and Democracy had published research on MBD. The following paragraphs summarise material published in two of its books “Trust us, we’re experts” and “Toxic sludge is good for you”. The story told in these books begins with a boycott coordinated by INFACT, a North American anti-corporate activist group in the late 1970s and 1980s. The boycott was in response to Nestlé's active
promotion of infant formula in developing countries, a practice that led to widespread infant
death due primarily to lack of access to clean water. Nestlé adopted an aggressive
corporate affairs strategy for three years, which did not make the boycott go away. It then
hired Jack Mongoven, an ex-journalist who had served as director of press relations for the
Republican National Committee and an advisor to the Nixon, Ford and Reagan
presidencies. He and Rafael Pagan devised a plan intended to bring down the boycott
without requiring Nestlé to respond to NGO’s concerns. They formed the “Nestlé
Coordination Center for Nutrition,” with Pagan as President and Mongoven as Vice
President, and implemented a strategy that became a blueprint for Mongoven’s future
career, and would be used to assist many other corporate affairs departments. The Nestlé
Coordination Center for Nutrition successfully recruited organizations to the pro-Nestlé
camp, dividing the boycott’s support base, then established the “Nestlé Infant Formula
Audit Commission”, a group that included former boycotters and was designed to appear
independent, to monitor Nestlé’s compliance. The strategy worked, thwarting the boycott
and making Pagan and Mongoven’s reputations. No longer needed at Nestlé, they formed
“Pagan International” and worked for the defence, chemical, pharmaceutical and food
industries until a scandal scuttled the company and Jack Mongoven left to form MBD with
Alvin Biscoe and Ron Duchin.

Ron Duchin graduated from the US Army War College, and served as special assistant to
the Secretary of Defence and director of public affairs for the Veterans of Foreign Wars
before joining Pagan International and then MBD. In 1991 he gave a speech to the US
National Cattlemen’s Association describing how MBD worked to divide and conquer
activist movements. Duchin explained that activists fell into four categories: radicals,
opportunists, idealists and realists, and that a three-step strategy was needed to bring
them down. First, isolate the radicals: those who want to change the system and promote
social justice. Second, carefully “cultivate” the idealists: those who are altruistic, don’t stand
to gain from their activism, and are not as extreme in their methods and objectives as the
radicals. This could be done by gently persuading them that their advocacy had negative
consequences for some groups, thus transforming them into realists, that is, into pragmatic
incrementalists willing to work within the system. Finally, co-opt the realists into
compromise. “The realists should always receive the highest priority in any strategy dealing
with a public policy issue... If your industry can successfully bring about these
relationships, the credibility of the radicals will be lost and opportunists can be counted on
to share in the final policy solution.”¹,² Opportunists, those who are motivated by power, success, or a sense of their own celebrity, would be satisfied merely by a sense of partial victory.

According to Stauber and Rampton, MBD specialised in providing this strategy to its clients in a customised form based on "public policy intelligence" specific to their concerns. Corporations paid a large monthly retainer for the privilege: one industry document, for example, shows that R.J. Reynolds paid MBD a retainer of $US14,000 per month in November and December of 1994.³ MBD maintained extensive files on organizations and their leaders including personal biographies, funding sources and susceptibility to co-optation. They also produced special reports, which they sold to their corporate clients for sums upward of $US1,000. They got their information by joining mailing lists, reading newsletters and other publications, and planting informants – people who claimed to be concerned citizens or freelance journalists – to gather inside information at advocacy events and from within advocacy organizations, sometimes infiltrating the organization and gathering information over long periods.

Stauber and Rampton also reported that MBD used mail and telephone “surveys” of activist organizations, generally framing their objectives euphemistically. In 1995, The Wilderness Society, an Australian environmentalist group, received a letter from MBD. Attached information described MBD as a firm “committed to the concept that corporate decision makers must develop a better appreciation of the public interest movement”, and described MBD’s role as “assist[ing] clients in developing long-term strategies to resolve contentious public policy issues in a balanced and socially responsible matter.”⁴ The letter sought to imply, at least, that MBD’s efforts were genuinely international, stating:

“increasingly, our clients have been seeking information and guidance concerning developments in Asia. To that end, MBD has set out to develop a series of ‘profiles’ of some of the leading non-governmental entities in Asia. We received exceptional levels of cooperation from NGOs in Europe and Latin America for previous projects, and we hope that the Asian community will be equally helpful...”⁴
A long list of specific questions was attached, including “who are your principal officers and staff?”; “what is your annual budget and what are your sources of funding (foundation grants, membership donations, etc.)?”; and “what are your most recent campaigns and achievements?” The Wilderness Society was aware of MBD because of the Centre for Media and Democracy’s work, and forwarded the material to PR Watch. According to Stauber and Rampton, despite the misleading descriptions of MBD’s function in their surveys, and the assumed identities of MBD informants, MBD’s representatives always claimed to be “outraged” at suggestions that their information gathering amounts to espionage.1,2

RESULTS

A small body of tobacco documents was found relating to MBD’s work for the tobacco industry. The earliest link between Mongoven and the tobacco industry suggested by the documents was an informal connection in 1985, when he represented the Nestlé Coordination Centre for Nutrition on the League of United Latin American Citizens Business Council along with Peter G Sparber, Vice President of the Tobacco Institute. However later documents demonstrated that MBD went on to work directly for the tobacco industry. A 1993 list of corporate affairs expenses for Philip Morris Companies Inc. included $US85,500 for the services of Jack Mongoven. The justification of the expense suggested the synergistic role Mongoven had played within the Philip Morris group of companies:

"Mongoven has a very unique niche. At our request, he will do investigatory work on various activist groups and flag problems, i.e. EDF [Environmental Defence], animal rights groups, etc. KGF [Kraft General Foods] uses the majority of his services. This contract ought to be split between KGF and WRO [Washington Regulatory Office]."7

Robert Blumel and Ronald Duchin appear to have consulted primarily for R.J. Reynolds. The earliest document found that mentioned Duchin was from 1986. It noted that Duchin was an ally who presented pro-industry arguments at military commissaries under the cloak of apparent independence.8 Occasional documents were found that showed Duchin
MBD's efforts for the tobacco industry can be divided into five metathemes:

1. environmental health issues;
2. monitoring or co-opting NGOs;
3. working against the US Food and Drug Administration;
4. providing damaging information about individual tobacco control figures; and
5. undermining the globalization of tobacco control, including the Framework Convention on Tobacco Control.

Indoor air, ETS and genetically modified organisms (GMOs)

Rampton and Stauber's work suggests that MBD are particularly experienced in fighting environmental NGOs, with areas of interest including endangered species, rainforest, hazardous and toxic wastes, environmental justice, drinking water, pesticides, and oil spills. There is evidence from the documents that MBD has provided general expertise to the tobacco industry on environmental activism, including to "The Working Group", a cross-industry body which included General Electric, R.J. Reynolds Nabisco, Pfizer Inc. and Dow Chemicals. In the late 90s, MBD intelligence was important to PM planning to ensure that Genetically Modified Organisms could continue to be used across the PM group of companies. It was in the early to mid 90s that MBD did most of their environmental work for the tobacco industry, on the issue of indoor air quality. Mongoven delivered several papers to PM on aspects of indoor air quality.

The papers detailed the relevant agencies and processes, forecasted likely legislative actions, and analysed risk management implications and related issues. They also highlighted Mongoven's trademark framing of the public as confused and woolly-headed, his lack of sympathy for the plight of consumers, and his tendency towards a dramatic communication style. In 1991 he advised that indoor air quality was "one of the issues we see beginning to receive more attention from the activists... Much of this issue has been based on an amorphous fear of the unknown, but that will not prevent it from becoming a real factor which will have to be dealt with." In the same year he advised PM that people professing to have Multiple Chemical Sensitivity "think of themselves as being like the
canaries that miners took below ground to provide a warning in case of dangerous levels of
gas in the air. Unlike the canaries, however, these people will not just die quietly."21
Both PM and R.J. Reynolds received advice from MBD on indoor air. In 1992 Mongoven
advised PM regarding the Environmental Protection Agency, writing about indoor air
quality: "we believe it to be in the interests of our clients to prefer Occupational Safety &
Health Administration (OSHA) regulation to EPA."24 Two years later, Ron Duchin and
Robert Blumel were fighting OSHA for R.J. Reynolds. In a 1994 report setting out status
and costings for their work and requesting a budget of $US41,500, they reported on their
achievements, highlighting an "indoor air quality project" which had succeeded in
"recruit[ing] veterans organizations in a campaign against onerous regulations and
legislation, particularly OSHA's proposed Indoor Air Quality regulation."3 MBD facilitated
veterans' groups testifying before OSHA, addressed veteran's organizations, and set up a
"survey centre" which gathered and dispatched information via an ever expanding mailing
list, an example of "third party strategy", that is, creating a purpose-built third party to
advocate a client's views. This technique is widely used in corporate affairs management
but appears to be a particular speciality of MBD. The survey collected information on
veteran's opinions and estimates of compliance in veteran's clubs, which was used in
testimony and was posted out to veteran's organizations. But its primary purpose was
reportedly "bring[ing] the indoor air quality issues to the attention of veterans organizations'
leadership without appearing to be promoting a specific industry's interest".3 MBD noted
that the project was "a powerful force for recruiting not only veterans organizations and
individuals within those organizations, but it can be expanded to other constituencies..."3

Monitoring and co-opting NGOs
The documents suggest that another apparent MBD specialty, monitoring and/or co-opting
NGOs, was provided on a number of issues for the tobacco industry. In 1994 Duchin and
Blumel undertook "a crash effort to recruit and retain national and state organizations, as
well as individuals, to a broad based ad hoc coalition to Get Government Off Our Back."3
Mongoven provided PM with a fairly pedestrian analysis of the 1998 meeting of Society for
Research on Nicotine and Tobacco's Annual Meeting,25 and in 1999 he investigated the
possibility of PM obtaining liaison status at the International Standards Organization,26
reinforcing existing evidence of industry's interest in influencing the ISO.27 More colourful is
MBD's engagement with INFACT, a corporate watchdog non-government organization that
went head to head with Mongoven during the Nestlé boycott in the 70s and 80s. MBD advised both R.J.Reynolds and PM regarding INFACT, and in ways which differed substantially in tone. In 1995 Duchin was suggesting that the joint participation of INFACT and the Interfaith Centre on Corporate Responsibilities (ICCR) in the FDA tobacco regulation issue was a significant threat that he could manage for R.J.Reynolds:

"the involvement of both INFACT and ICCR in any activist campaign brings a unique dimension to the issue – the power of perceived church sponsorship of the activist groups. MBD has been following the two organizations and their leaders for many years. We know their styles of leadership and their philosophies they adhere to. We can be of help to RJR in monitoring and developing strategies relative to these groups and their activities."

Less than three years later, Mongoven provided PM with a detailed report on INFACT's Hall of Shame, including details such as planned targeting of board members, the text of letters to be sent to them, and the predicted course of the campaign. Overall though, Mongoven appears to be aiming to paint INFACT as being rudderless and grasping at causes for the sake of engaging in activism, while being careful to cover his risk-management bases.

"Despite INFACT's grandiose plans and threats, we do not believe that the organization represents the threat that it once did... It is important to note, however, that demonstrations at corporate annual meetings are often disruptive and embarrassing to corporate management."

These contrasting framings of INFACT raise some questions, impossible to answer from the documents, about the extent to which MBD play their clients as hard as their opponents. Given that Mongoven and his colleagues have worked against causes such as the prevention of infant death in developing countries and the anti-apartheid movement, it seems unlikely that they would feel constrained by high moral principles. Perhaps MBD's advice on indoor air quality and on INFACT differed because circumstances were different, or perhaps even corporations should be wary of those who "manage issues" for a living.
Working against the US Food and Drug Administration

The documents suggest that R.J. Reynolds commissioned MBD to actively work against the US Food and Drug Administration (FDA)’s attempts to regulate tobacco in 1994 and 1995. Unsurprisingly, the strategy included co-optation of veteran’s groups and the use of third party strategy (“develop an entity”):

"MBD has now undertaken to assist RJR with its FDA project to obtain one million plus signatures in opposition to the FDA’s potential regulation of tobacco products. MBD will develop an entity and message to provide petitions to local posts and grassroots veterans organization... additional signatures can be obtained from members of social and fraternal organizations which work closely with veterans posts."

A fax from the Senior Director of R.J. Reynolds’ Public Issues Department gives the most detail about the advice Robert Blumel was giving on the FDA process, and suggests some incredulity:

"Faxed proposed rule to Bob Blumel on Thursday and followed up with him today. Blumel feels ($$$) that getting Congress to take an interest in the issue will be easier as it can be argued that the cost of the regulations will add to the deficit. He suggests a cost benefit analysis or study from one of the think tanks here in town (CEI, Heritage, CATO) to demonstrate that not only will the proposal not have any effect on children smoking, but that it will cost the taxpayers a whole lot of money. He thinks attacking the proposal from a cost argument could be the necessary hook to pull in conservative deficit hawks on the hill. In addition, Blumel is going to the FDA on Monday to poke around and see some of his contacts to see if he can get a feel for what they think of Kessler’s proposed regs. I’ll be having lunch with Blumel on Monday afternoon.”

Blumel certainly appears to have been gathering information from inside both Congress and the FDA on the proposed regulatory changes. The meaning of the aside ($$$) is unclear. Perhaps Hyde was referring to the cost of Blumel “feeling” anything on behalf of
R.J. Reynolds. MBD certainly didn't have an open chequebook to pursue the FDA process, as evidenced by Duchin's suggestions four months later that for a fee he could investigate NGOs' lobbying of the FDA.28

Providing damaging information about individual tobacco control figures

A particularly unpleasant element of MBD's tobacco work appears to have been preparation of backdrops on tobacco control leaders, presumably to enable the industry to discredit them in the eyes of the public or decision makers. Philip Morris specifically requested that MBD investigate Dr Sydney Wolfe of the Health Research Group (HRG), Cliff Douglas of the American Lung Association and Scott Ballin of the American Heart Association in 1992. MBD sent information they already had on file and advised "If we had a day or so we could expand on this information significantly."31 As well as general information about the men's career paths and networks, Mongoven's made some seemingly desperate and unsuccessful attempts to identify character flaws or weaknesses.31 Far more brutal was MBD's work on Dr Gro Harlem Brundtland in relation to her appointment as Director General of the WHO. Brundtland moved tobacco control to the top of the WHO priority list on her appointment, thus posed a significant threat to the industry. In 1998 Mongoven provided intelligence both on the appointment process and Brundtland's loyalties, predicting that she was certain to be elected to the position.32 Six months later, Jack Mongoven provided a memo bluntly entitled "Brundtland and Whales", which highlighted the fact that Norway engaged in whaling during the period that Brundtland was Prime Minister, in opposition to the 1986 moratorium declared by the International Whaling Commission (IWC).33 A folder of materials found in Matt Winokur's office labelled "WHO Planning" contained the Greenpeace publications which were attached to this memo.34 Criticism of whaling is readily justified, but given that Mongoven was a trenchant opponent of animal rights and environmental activism, this criticism of Brundtland seems extremely cynical.

Working against the globalization of tobacco control

The final area in which MBD has worked for the industry is in undermining WHO processes, particularly the FCTC. The FCTC was initiated in 1996 by the World Health Assembly, an association of 161 governments under the auspices of the WHO. It was
adopted by member countries of the WHO in May 2003 and entered into force on
November 29th 2004 when Peru deposited the fortieth instrument of ratification at the UN in
New York. The FCTC binds those member countries that ratify it. Any convention is
generally associated with a set of protocols. These are detailed legal instruments on
particular sub-issues (in the case of tobacco, issues such as advertising or taxation), which
can be written consecutively with or following the completion of the convention itself. An
ongoing tension exists in any convention process because protocols are individually
ratified, separate from the convention itself. Thus negotiation of a framework convention
can pursue one of two paths: a weak convention which most countries will ratify plus strong
protocols which may be delayed indefinitely and to which few will sign; versus a strong
convention, which may be ratified by fewer countries but will provide an international
standard for comprehensive global governance. The FCTC and its protocols must be
accepted by the World Health Assembly before being ratified, and every member-state of
the World Health Assembly has one vote. Thus every nation-state in the World Health
Assembly has at least a nominally equal say in the final “yes or no” decision, although
obviously the political and fiscal reality is far more complex.

The FCTC development process started with two working groups in 2000, which set out an
initial framework, and continued with a series of sessions of the Intergovernmental
Negotiation Body (INBs), the fourth of which was held in March 2002, when the chapter on
which this paper is based was originally published. The secretariat for all of the formal
meetings of the FCTC was the Tobacco Free Initiative (TFI), a WHO cabinet project
created by Gro Harlem Brundtland at her appointment in 1998 to focus international
attention, resources and action on global tobacco control. NGOs formally recognised by
the WHO were able to observe and make formal “statements” at FCTC meetings: NGO
meetings were thus scheduled to precede and coincide with FCTC meetings.
Opportunities for lobbying occurred at the INBs, and also at Regional Intersessional
Meetings. These meetings occurred within the six WHO “regions” (Africa, The Americas,
Eastern Mediterranean, Europe, South-East Asia and Western Pacific) as well as within
other groupings (eg. ASEAN). They were not part of the formal process, occurring at the
region's discretion, but groups of nations did speak formally at meetings of the INB.

In July 2000, a WHO “Committee of Experts” released a report entitled “Tobacco company
strategies to undermine tobacco control activities at the World Health Organization”. In it
was detailed evidence of a wide range of deliberate ploys by big tobacco to "contain, neutralise and re-orient" WHO tobacco control activities. Based on what they had found, members of the committee concluded:

"it is likely that tobacco companies will attempt to defeat the proposed Framework Convention on Tobacco Control, or to transform the proposal into a vehicle for weakening national tobacco control initiatives. Such a campaign is likely to be sophisticated and sustained, and to use tactics similar to those described in this report."35

The documents suggest that this observation was prescient. It appears that from 1997 MBD worked against the FCTC process for PM as well as advising on undermining the WHO in general. In August of 1998 Mongoven analysed the framework convention process, including "strategic recommendations and case studies of past and on-going negotiations."36,37 Mongoven started by ensuring that his client was convinced of the seriousness of the situation. "Once a framework convention reaches this stage a final product is virtually inevitable", he counselled. PM was advised to learn from the Framework Convention on Climate Change, in which industry groups did not participate early, making the mistake of assuming that the US would not be a signatory. When industry groups realised that their predictions were misplaced, they were forced to "fight a decidedly uphill battle against activists."37

"Activists are aware that the existence of a framework convention allows them to gradually escalate the severity of restrictions through adoption of additional protocols never envisioned at the time of treaty ratification... In conventions where industry has participated from an early stage it has played an important role in shaping the framework convention and thus the protocols. The pharmaceutical industry’s involvement in the Framework Convention on Biodiversity is a good example of Western industry participating in the development of what could have been a very onerous agreement but which has become an acceptable regulatory regime."37

Action was thus required to influence both the treaty and the protocols, Mongoven advised:
The first alternative to an onerous convention is to delay its crafting and adoption. Since the US Congress only enters this issue when the treaty must be ratified, the current administration will be responsible for US input and negotiations of the treaty. Any pressures to delay the finalization of the convention would require the combined efforts of several individual or coalitions of countries and various NGOs..."37

Mongoven advised that the working groups were key sites of influence for NGOs, and that "the key intervention points to delay or strongly influence movements in negotiations are the biennial meetings of the [World Health Assembly] where all the individual nation-states participate... The first target [World Health Assembly] would be 1999. Any strategy to deal with same would have to be in place by mid-1998."37

"Aside from delaying the adoption of a convention the company is best served by participating in the development of the agreement. It would be in the company's interest to have the treaty focus entirely on protecting children and leaving adult choice protected..." "Any effort to influence the convention finally adopted will require a highly sophisticated and well coordinated central strategy ... the corporation must have a cohesive and consistent strategy and focal point or it will be working against itself in an international tribunal... Compromises can be significantly influenced, but to do so requires a clear cut decision to do so, agreement on specific objectives to be sought, a comprehensive strategy to achieve those objectives and a central structure to implement the strategy worldwide."37

Mongoven worked hard for PM in the last months of 1998, but many of the reports he wrote have not been included in Philip Morris' online document collection. Covering memos show that he completed an analysis of the creation and roles of NGOs in relation to UN processes, a briefing paper on "the background and current thinking at WHO on tobacco control", which was to be used for lobbying purposes, and a paper analysing International Framework Convention issues. The memo covering the WHO paper suggested that Mongoven was making the most of UN contacts: "As you can read from our
memo on the interview with Mr Uranga, WHO is stepping on a lot of toes – perhaps something we ought to watch more closely.40

Not long afterwards, MBD were asked by PM's Matt Winokur, director of Corporate Affairs for PM International in Washington, to "look into" another WHO-sponsored event, an International Policy Conference on Children and Tobacco, to be held in Washington DC on March 18 1999.43,44 The conference aimed to devise healthy public policy, and was a relatively closed and expert affair rather than a general information-sharing opportunity. In MBD's analysis of the media announcement of the conference,45 Mongoven also delivered the inside word on the international framework convention, noting that he had had a private conversation with TFI staff about their plans to enlist the support of US politicians for the FCTC, and that TFI were "very encouraged by the receptivity of American policymakers to advancing the IFC".45

By April, Mongoven had moved on from general background papers to specific analyses of components of the FCTC process, was starting to focus on the NGOs involved in the process, and was reporting monthly on his ongoing investigations. He reported that an NGO meeting was scheduled at WHO on May 15th and 16th to coincide with the World Health Assembly in Geneva, organised by the International Non Governmental Coalition Against Tobacco (INGCAT), at that time run by Karen Slama. "The purpose of the meeting is to mobilise important international organizations which have not taken a stand against tobacco... Slama has scheduled a press conference for May 14th which we will cover."46

That day Mongoven also forwarded an intelligence report on activities of the Tobacco Free Initiative.47 The report listed the TFI activities in progress and the personnel involved, and detailed methods for selecting tobacco control activists for awards on the upcoming World No Tobacco Day, identifying one of the planned recipients. Considerable detail of the TFI's activities was included:

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Presumably (but not certainly) Raúl Uranga, who was staff at the United Nations System Focal Point on Tobacco or Health, a unit which preceded the TFI and was sited in the UN Economic and Social Council (ECOSOC), a policy decision seen as a victory by the industry at the time. This document suggests that the industry may have had links to the focal point.
The review of the Children's Rights Convention with reference to tobacco is almost completed. The lawyer handling it is finishing his TFI contract next month, and will move on to work with UN High Commission of Refugees... The UNICEF Adolescent smoking survey in nine countries is about to begin and continue for two months. Apparently, some problems still have to be resolved but the launch is being planned. The survey will be handled by education authorities and tobacco-control NGOs in the participating countries... Globalink and TFI are developing a joint web-site with help from IUAC... Framework convention is still in its political support-seeking stage. [The World Health Assembly] is expected to either give it impetus or downgrade it at its upcoming meeting. It appears there is some reserve on the part of some representatives to make it as high a priority as the Director General has. Drafters of the IFC are making slow headway and have yet to come up with a concrete outline they can agree on.47

The document evidence begins to thin out around June 1999. However the last two documents, from mid-1999, suggested that PM was acting on MBD's advice. They were engaging with the 1999 World Health Assembly, as suggested by Mongoven in 1997, and appeared to be approaching the FCTC problem in terms of regions. Winokur emailed Anne Kush and others on June 6th regarding "draft cover for followup to regions," advising "I'll get Mongoven's transcripts sent up by disc so we can send those out as well,"48 and on June 18th he distributed "revised country comments at [the World Health Assembly] compiled by MBD".49 The available documents finish at that point, but the FCTC process continued, and so did MBD's involvement. On March 15th 2000 in Washington DC, the US Centres for Disease Control and Prevention held public hearings to solicit "comments from the public" on the FCTC. Attending, but not presenting, was a Mr. Matthew Vanek, listed as a "Policy Analyst", from MBD.50

DISCUSSION

In the published version of this work, I suggested that the most worrying of all of MBD's efforts was their engagement with the FCTC process, that it was highly probable that MBD continued to work for Philip Morris on the issue, and that PM had a centralised coordinated
strategy to undermine the FCTC as recommended. The documents certainly suggested, in summary:

1. an intention to delay the FCTC;
2. an intention to focus the convention on children, framing the issue as one of adult choice;
3. an interest in what content is included in the convention and what is left to be dealt with in the protocols;
4. a recommendation that the "combined efforts of several individual or coalitions of countries and various NGOs" would be required;
5. a focus on the meetings of the World Health Assembly as key intervention points, suggesting an intention to co-opt the votes of individual nation-states through lobbying; and
6. an interest in approaching the issue by region.

Negotiation of the text of the FCTC is now complete and the original paper on which this chapter was based was released in 2002. As shown in Appendix Three, it generated some international interest around INB4, not least from MBD and Philip Morris. Jack Mongoven died of lung cancer in 2001, but in his absence Ronald Duchin claimed that the information in the paper was "almost totally untrue". This would be a difficult claim to support, given the extent of the documentary evidence regarding MBD's work for PM and R.J. Reynolds. Duchin also insisted that MBD had not been associated with tobacco interests "for quite some time". This indignant distancing from the industry was hard to interpret: it may have been bluff; it may have been true if "some time" meant two years; the relationship between MBD and PM may have ended with Mongoven's death. Duchin's statement certainly suggested some discomfort with the findings reported here becoming public.

Philip Morris International also responded with the following press release:

"Lausanne - Today Philip Morris International reiterated its support for the World Health Organization's (WHO) efforts to create a Framework Convention on Tobacco Control Framework (FCTC). David Davies, Senior Vice President of Philip Morris International, stated:
"We think the WHO has a legitimate role in proposing strong and effective regulations on the marketing, manufacturing and sale of tobacco products, especially with the goal to prevent minors from smoking."

The company confirmed that in the past the consultancy firm Mongoven Biscoe and Duchin had provided information about the process and progress of WHO's Framework Convention on Tobacco Control. David Davies said that "it is nothing out of the ordinary to seek information and understand the processes so that the company can make a constructive contribution." The company no longer has a relationship with this consultancy firm.

Philip Morris International has been very clear and open about its position on the FCTC. The company supports the WHO's FCTC based on four key principles:

1. Smoking-related decisions should be made on the basis of consistent public health messages
2. Effective measures should be taken to prevent minors from smoking
3. The ability of adults to choose to smoke
4. All manufacturers of tobacco products should compete on a level playing field.

Philip Morris International also reiterated its desire to work with the WHO and Member States. Although WHO and others have called for the exclusion of tobacco companies from the FCTC process, Philip Morris believes that all interested parties, including tobacco companies, have a legitimate role to play.\textsuperscript{51}

This statement is completely consistent with the advice previously given by MED: emphasise youth smoking prevention; appear to be highly cooperative; work from within. PMI's characterization of MBD's work as constructive certainly seems euphemistic.

Mongoven, Biscoe & Duchin and consultancies like them are part of the mechanism by which regulatory processes and community opinion are annexed by corporate interests, as
described in Chapter Two. For Jack Mongoven, public health, consumer advocacy, and “the kind of fuzzy thinking which brought us the likes of the precautionary principle” were secondary to the science produced by corporations. Rampton and Stauber have observed that MBD created their own form of scaremongering where the industry became an “innocent giant under attack from radicals”, mobilizing grand narratives of modernization, technology and western values against the “threats” of radical communities and the encroaching developing world. MBD is not the only corporate affairs consultancy that gathers intelligence on advocates, and of course advocacy campaigns sometimes use the methods evidenced here: strategic thinking about the strengths and weaknesses of an opponent, using contacts to gather information, selecting the best possible mouthpiece for media coverage. The differences lie in the resources available, the objectives, the outcomes, and, resonating again with Chapter Two, the ideologies on which these are based.

The documents and Stauber and Rampton’s work both suggested that MBD were pragmatic about reaching their corporate affairs objectives and unconcerned about the impact they had on disempowered others. When corporations have these kinds of specialists working transnationally to protect their interests, it is no wonder that the widespread changes observed in Chapter Two continue apace. The challenge is for civil society and regulatory procedure to ensure that MBD and organizations like them do not impact any further on local and global tobacco control policy and practice, and for people working in tobacco control to be wary of consultants seeking to isolate the radicals, re-educate the idealists, flatter the opportunists and co-opt the realists.

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SECTION THREE: 21ST CENTURY MARKETING
CHAPTER NINE THE AUSTRALIAN CIGARETTE BRAND AS PRODUCT, PERSON AND SYMBOL

INTRODUCTION

The purpose of research reported in this chapter was to understand contemporary Australian cigarette brands, and the process by which the tobacco industry had attempted to make those brands meaningful for consumers in an increasingly restricted marketing environment.

The “brand”

The brand is a fundamental, dominant and constantly evolving concern in marketing. Despite agreement on the importance of brands, what constitutes a brand is contested. Although the brand is sometimes defined simply as a "logo, trademark or package design," many authors emphasise that a brand is far more, particularly more recently, in critical works on marketing, and in professional resources for marketing practitioners.

Brand image

In the 1950s and 1960s, marketing focused on the characteristics of the actual product: concrete, novel product benefits. The brand did not communicate anything about the product: it was considered to be merely an identifier that helped the consumer to find the brand more easily via the name and logo. A highly original paper produced in 1955, “The product and the brand,” posited that a brand was more than just a memory aid. It was a complex symbol that built up a body of associations over time, and thus communicated ideas, attributes, image, character and personality to consumers. With prescience, the authors of this paper foreshadowed a fundamental contemporary distinction between the product, a concrete object produced in a factory, and the brand, an abstract construct which is independently important to sales. That paper inspired David Ogilvy to champion the idea of “brand image” or “brand personality” in the 1970s, often embodied as spokesperson characters for the brands he advertised.
"brand image" concept is still important, now generally defined as the associations with or perceptions of the brand in the mind of consumers.3,4,10,14,16

**Brand positioning**

In the 1980s positioning rose to prominence. The position of a product was also a place in consumers' minds, but it was a place relative to competing products.3,6,10,11 The concept of the "positioning statement" is still current in marketing,9,11,28 defined by Aaker as "the part of the brand identity and value proposition that is to be actively communicated to the target audience... [to] demonstrate an advantage over competitor brands."2,3 Brand identity will be discussed shortly. Aaker defines the value proposition as "a statement of the functional, emotional and self-expressive benefits delivered by a brand that provide value to the consumer,"2,3 that is, a statement of what the brand can do for the consumer. Positioning statements are necessarily efficient. Not all aspects of a brand's identity can be communicated to a consumer – many of them will operate as a back-story to guide a marketing manager's thinking.

**Brand equity**

A dichotomy between "brands" and "commodities" underlies the brand concept. When consumers choose "commodities," they do so on the basis of price.2,8 Brand building is seen to liberate products from this dependence on price alone by creating lasting value in consumers' minds.2,5,8,10,19 It is widely acknowledged that this added value, together with a positive consumer experience of the product, can justify a higher price, influence sales levels, increase stock values and improve profits.14,6,9,18,19

In corporate acquisitions in the 1980s, huge prices began to be paid for brands, over and above the value of their manufacturing facilities.9,10 This brought brand equity, the financial value of brands, above and beyond the value of the products they were linked to, to prominence. This concept became increasingly important in the 1990s.9,14 Although there is much disagreement about how it should be measured,9 brand equity is seen to arise from other aspects of the brand, including brand awareness, brand imagery, brand loyalty, consumers' attitudes to the brand, perceived quality, brand associations, and patents and trademarks.2,4,10,11,17 It can be influenced by major new products, product problems, management changes, competitor actions, and legal actions.2
Brand identity

Later work emphasises the notion of a brand identity, defined by the brand’s manager and determining all aspects of a brand’s marketing.\textsuperscript{2,3,9} Brand identity is complex and potentially arises from many elements (Table Five).\textsuperscript{2} It is idealised, creative and dynamic, a vision, purpose and meaning for a brand, encapsulating the brand’s values and determining the associations made with the brand.\textsuperscript{3,9} Identity differs from brand image, which exists in the consumers’ mind and is only partly determined by brand identity, and from positioning, which expresses only some aspects of a brand’s identity and benefits.\textsuperscript{3,9} Aaker identifies three parts of brand identity. Brand essence is “a single thought that captures the soul of the brand”, what it is or what it does. The core of the brand’s identity consists of a few brand elements that summarise the brand’s vision. The brand’s extended identity consists of “elements that provide texture and completeness”.\textsuperscript{2,3}

TABLE FIVE: POTENTIAL COMPONENTS OF BRAND IDENTITY, ADAPTED FROM AAKER\textsuperscript{3}

<table>
<thead>
<tr>
<th>Elements of brand essence, core identity and extended identity</th>
<th>BRAND AS PRODUCT</th>
<th>BRAND AS ORGANIZATION</th>
<th>BRAND AS PERSON</th>
<th>BRAND AS SYMBOL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Association with product class (e.g. cigarettes)</td>
<td>Organization attributes (e.g. innovation, trustworthiness)</td>
<td>Personality (e.g. feminine, rugged)</td>
<td>Visual imagery and metaphors</td>
<td></td>
</tr>
<tr>
<td>Product attributes (e.g. taste)</td>
<td>Local versus global</td>
<td>Brand-customer relationships (e.g. friend)</td>
<td>Brand heritage</td>
<td></td>
</tr>
<tr>
<td>Quality/value</td>
<td>Uses</td>
<td>Users</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Country of origin</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
RESULTS

Brand loyalty
While Australians' loyalty to particular cigarette brands exceeds loyalty to other Australian product brands, my sources suggested that the industry considers Australian smokers to be less brand loyal than, for example, US or UK smokers. Industry documents from the 1970s to the 1990s state that the Australian market is volatile and characterise Australian smokers as both commonly smoking more than one brand and readily switching brands.33-37 A 2002 BATA advertisement in Retail World, solely intended to convince shopkeepers to avoid running out of stock, supports this notion: the most dramatic warning BATA could muster, based on its "general consumer survey" was that 43% of smokers would go elsewhere if their regular brand variant was out of stock, 28% would reportedly buy a different variant, and 22% a different brand.38 Although not directly comparable, findings from other markets such as the US, where a 1997 study reported that only 9.5% of smokers switched brands,39 suggest that Australian brand loyalty may be relatively low.

Regional variation
The sources also suggest that the Australian market is highly regionalized. David Metcalf of WD&HO Wills was quoted as saying in 1998: "it varies by state... Australia is really amazing – it's almost like separate countries."40 Although this makes market research more difficult, it also provides marketing opportunities.35,41,42 Apart from Escort, which has approximately one quarter of the convenience market in South Australia but a negligible share in other states,43 the same few brands occupy different positions in the share data for different states. In the convenience market in the last quarter of 2002 for example, Winfield was the leading brand in Western Australia, NSW and Victoria, with 35.0%, 34.0% and 25.1% value share respectively, but was third in Queensland at 18.9% and fifth in South Australia with 9.0%.43 In 1986, Sydney, the biggest city market, was characterised

k The following discussions will often contrast the convenience retail sector, which is comprised of corner shops, petrol stations and convenience stores, with the grocery retail sector, which is comprised of large supermarket chains. Much has been written in recent years in Australia about the anti-competitive nature of the grocery sector, which has become highly concentrated through mergers and acquisitions. The convenience sector contains more small and independent businesses.
as image-based, rejecting deep discounting, while Melbourne, the next biggest, was characterised as value-based, responding more positively to discounting. However this pattern is not clearly reflected in current data from these markets.

Local branding

Although the global cigarette market has been increasingly oriented towards international brands, since the 1970s successful Australian brands have been those, like Winfield, Peter Jackson and Longbeach, that were given distinctly Australian brand identities, and from the mid 1980s onwards the local industry formally recognized that Australian smokers were resistant to international brands.

Diversification within existing brand families

The sources also suggest the fundamental importance of increasing mildness in Australia. The “low tar” segment has been a priority for Australia since the mid 1970s because it attracts “health conscious smokers,” enhances quality perceptions, and assists smokers to deal with the declining social acceptability of smoking. Over time “mildness” has become essential to Australian brands, and is most acceptable when provided as a line extension, that is, a new variant of an existing product under the same brand. Frequently “mildness” is expressed not just through variant names, but also through pack changes, generally through the use of paler and/or bluer colour.

By the early 1990s, industry documents referred to the Australian market as the “mildest in terms of average delivery,” and to the “dramatic downward shift of [tar and nicotine] deliveries of Australian products” as a “key dynamic” of the market. In 1994, Henry Goldberg, then managing director of PML, argued: “for some years now, there have been three kinds of new products launched in Australia; mild extensions; price propositions; and failures. We don’t intend to launch a new price brand unless provoked. Not surprisingly then, we have plans for even lower tar versions of all of our major brands.”

Australian brand identities thus need to be particularly robust, capable of resonating through up to eight or ten variants. Machine-read tar is objectively relatively meaningless because smokers are able to compensate to adjust for product design changes, and the industry’s own consumer research showed that smokers had minimal understanding of
what "low tar" actually meant. However industry research also showed that smokers experienced "lowered tar" as a real sensory phenomenon, influenced in part by the brand family and the tar band printed on the pack. Manufacturers raced to lower the tar banding of their important brands both to maintain loyalty by enabling trade-down over time within one brand family, and to attempt to steal share from competitor brands by getting to a "tar point" first.

Other Australian tobacco control research confirms that, in the current market, when a brand moves into a lower pack count, for example, it tends to do so in a wide range of tar variants. Examination of patterns in Australian retail trade publications suggested that the 5 to 8 mg "medium" tar band currently has the highest share and is the industry's priority. Line extensions in recent years have included Benson&Hedges Lights 6 (6mg, 1997); Marlboro Medium (8mg, 2001); and Winfield Light Blue Special Mild 6 (6 mg, 2003). Supervalue products (the cheapest brand group in the Australian market, to be discussed further in the next section) offer vast "lights" choice: Longbeach, for example, is in Filter, Mild, Super Mild, Ultra Mild, Ultimate, 1mg, Menthol, and Menthol 2mg. As noted in Chapter Three, my analysis of retail trade publication advertising included counting the number of advertisements that were dominated by images of packets of cigarettes labelled "light," "mild" or 8mg tar or below, even when the advertisements were for the entire brand family. Sixty one percent of premium advertising, 64% of mainstream advertising, and 80% of supervalue advertising featured low tar variants. What was once low tar is an increasingly regular offering, reinforcing mildness as an intrinsic brand characteristic.

**Premium, mainstream, supervalue**

The Australian cigarette market is far simpler than the complex matrix of brands available internationally. In 2001 in supermarkets, for example, ten brands accounted for about 95% of volume. Australian brands belong to one of three categories, commonly termed premium, mainstream and supervalue. WD&HO Wills called them "premium, value and commodity" and characterised them as: "image, image/value, and value/image". Supervalue are sold primarily in packs of 30, 40 or 50, mainstream and premium brands in packs of 30, 25 or 20. The three categories were slowly constructed through competitive attacks and in response to perceived consumer preferences between the early 1970s and the introduction of the Tobacco Advertising Prohibition Act in 1992.
Tables Six to Eight present basic information about these brand categories. Table Six lists the major Australian brands of ready-made cigarettes in 2002. There are many other minor brands, mostly of Asian origin, available and advertised in Australia but these currently hold small market shares and are not discussed here. The rolling tobacco category is also not considered. Table Seven shows market share data found in the retail literature.

Mainstream brands had the largest market share in both the convenience and the grocery sector. After mainstream brands, premium did better in convenience shops and supervalue in grocery shops. Table Eight enumerates the targeting of advertising to retail trade publications, showing a skew corresponding to the market share data. Note that for high profit premium brands there were more advertisements overall, and that the majority of double page and cover advertisements were devoted to premium brands.

**TABLE SIX: PML, ITA AND BATA BRANDS OF READY-MADE CIGARETTES ADVERTISED IN THE AUSTRALIAN RETAIL TRADE PRESS**

<table>
<thead>
<tr>
<th></th>
<th>International brand</th>
<th>Predominantly Australian brand</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Premium</strong></td>
<td>Benson &amp; Hedges</td>
<td>Alpine (stand-alone menthol)</td>
</tr>
<tr>
<td>(*minimal brand share in 2002)</td>
<td>Dunhill Kent* (stand-alone low tar)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lucky Strike*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Marlboro</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Peter Stuyvesant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>West*</td>
<td></td>
</tr>
<tr>
<td><strong>Mainstream</strong></td>
<td>Escort (South Australia)</td>
<td>Peter Jackson</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Winfield (now exported)</td>
</tr>
<tr>
<td><strong>Supervalue</strong></td>
<td>Holiday</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Horizon</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Longbeach</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Stradbroke</td>
<td></td>
</tr>
</tbody>
</table>

1 In the following sections, advertising from retail magazines will be used to illustrate the points made about brand identities. This advertising is not intended to reach the consumer, but contains a great deal of textual and visual brand positioning information. The significance of the use of retail advertising as a marketing strategy will be discussed in Chapter Eleven.

\(n\) In most instances in Australia functional benefits such as mentholation or low tar are offered as line extensions within existing brand families. Stand-alone products are distinct brands positioned on such a functional benefit.
TABLE SEVEN: BRAND VALUE SHARE DATA FOR THE GROCERY AND CONVENIENCE MARKETS 2001–2

<table>
<thead>
<tr>
<th></th>
<th>Value Share grocery</th>
<th>Value Share Convenience</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mainstream</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Winfield</td>
<td>17.4</td>
<td>28.1</td>
</tr>
<tr>
<td>Peter Jackson</td>
<td>16.4</td>
<td>17.2</td>
</tr>
<tr>
<td><strong>Supervalue</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Longbeach</td>
<td>19.8</td>
<td>9.7</td>
</tr>
<tr>
<td>Horizon</td>
<td>15.1</td>
<td>6.2</td>
</tr>
<tr>
<td>Holiday</td>
<td>5.4</td>
<td>2.5</td>
</tr>
<tr>
<td>Stradbroke</td>
<td>2.1</td>
<td></td>
</tr>
<tr>
<td><strong>Premium</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Benson&amp;Hedges</td>
<td>8.5</td>
<td>12.5</td>
</tr>
<tr>
<td>Dunhill</td>
<td>2.7</td>
<td>6.8</td>
</tr>
<tr>
<td>Marlboro</td>
<td>2.1</td>
<td>4.8</td>
</tr>
<tr>
<td>Peter Stuyvesant</td>
<td>[too low to report]</td>
<td>4.1</td>
</tr>
<tr>
<td>Alpine</td>
<td>3.8</td>
<td>2.8</td>
</tr>
</tbody>
</table>

The premium segment

The premium segment contains Australia’s oldest brands, mostly major international brands. They are targeted to younger, more urban, higher income consumers who care more about image than price and are more likely to buy in packs from convenience shops than in cartons from grocery shops or supermarkets. They are also targeted to mainstream smokers who use them as supplementary brands.75

The shared core element of the identity of premium brands is quality.56,65,76-80 As Aaker notes,2,3 “quality” and “value” are inextricably linked, and premium brands offer quality rather than value – they are typically sold at high price in a small pack. “Quality” is seen in brand-as-symbol and brand-as-personality elements as well as brand-as-product elements such as taste.79

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* ACNielsen grocery Value Share Taken from Retail World Annual Report 2001
* C*track data Convenience Value Share to 23 Dec 2001 taken from Australian Convenience Store News March/April 2002 Tobacco feature
### TABLE EIGHT: NUMBER OF ADVERTISEMENTS IN RETAIL TRADE PUBLICATIONS

<table>
<thead>
<tr>
<th></th>
<th>TOTAL</th>
<th>Number of premium advertisements</th>
<th>Percent of all premium advertisements</th>
<th>Number of mainstream advertisements</th>
<th>Percent of all mainstream advertisements</th>
<th>Number of supervalue advertisements</th>
<th>Percent of all supervalue advertisements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Retail Tobacconist</td>
<td>42</td>
<td>20</td>
<td>39</td>
<td>12</td>
<td>44</td>
<td>10</td>
<td>45</td>
</tr>
<tr>
<td>Australian Service Station and Convenience Store News</td>
<td>39</td>
<td>23</td>
<td>45</td>
<td>11</td>
<td>41</td>
<td>5</td>
<td>23</td>
</tr>
<tr>
<td>Retail World</td>
<td>19</td>
<td>8</td>
<td>16</td>
<td>4</td>
<td>15</td>
<td>7</td>
<td>32</td>
</tr>
</tbody>
</table>

|                  | TOTAL | 100                              | 51                                    | 27                                 | 22                                     |                                    |                                           |
|                  |       |                                  |                                       |                                    |                                        |                                    |                                           |

| Total advertisements on cover or more than one page | 42 | 24 | 47 | 14 | 52 | 4 | 18 |

Australia is a “priority market” for Benson&Hedges, which dominates the premium segment. The essence of Benson&Hedges' brand identity is “gold,” communicated especially through the pack. Benson&Hedges’ “gold” essence aligns the brand to the core premium brand element, quality. This can be seen in Figure One, which features prominent gold colouring resonating with the pack hero and a sophisticated abstract image consistent with quality as well as the trademark ampersand.

Alpine’s brand essence, in addition to the core premium brand element, quality, is “fresh clean femininity.” This is strengthened by brand-as-product, brand-as-symbol and brand-as-person elements. Alpine’s users are young feminine white collar (or not working) women. Alpine is mentholated and has white tipping and a green and white pack. It also has a heritage of “escapist” promotional imagery starring a young, free and attractive woman going on a five star beach holiday. This is shown in Figure
Figure Three: Dunhill retailer print advertising 2001-3

Figure Four: 2001-3 Winfield retailer print advertising featuring "masculine" visual joke about a fish caught with two fishing lines
Two, which communicates the premium core brand element, quality, through the obvious exclusivity of the travel story communicated by the picture series. The feminine brand-as-person element is conveyed through the silhouette, thus evading the ban on appearance of human figures in advertising, and the trademark Alpine green is carried through the single-tone artwork. The positioning statement, “Fresh is Alpine”, which has been in use for decades, communicates the essence of the brand’s identity.

Consumer research commissioned by the industry has suggested that consumers' brand image for premium brands matched the brands' identities and positioning. In consumer research conducted in the 1990s, both Dunhill and Benson&Hedges were perceived as classy, stylish, up-market and top quality,37,83 Benson&Hedges as “clever/intelligent with status”, and "non-elitist but aspirational,"78,79 Dunhill as "exclusive/elitist."79 The Dunhill advertisement in Figure Three contains positioning consistent with this image. The pack hero, which completely dominates the advertisement in close-up to the exclusion of the environment, suggests Dunhill's intrinsic worth, that is, its quality. Nothing additional is needed to speak for the brand, the pack itself is enough.9 Consumer research conducted for WD&HO Wills suggested that the maintenance of Benson&Hedges’ “gold” heritage told Benson&Hedges smokers “I'm OK, you're OK” in the face of the declining social acceptability of smoking.79 Alpine was perceived as milder, cleaner, less harmful and more “healing” than non-menthol cigarettes. Its image also had strong brand-as-person elements. Alpine was seen as “feminine”, “upmarket”, “sophisticated”, and signified “balanced success as women” to its smokers. Alpine benefited from a relationship with its smokers that provided “emotional gratification,” relaxation, “regaining control and confidence”, “looking and feeling attractive” and “temporary escapism.”59,80

The mainstream segment

Although cigarettes had been available in Australia at a range of price points from at least the 1960s,50,57,77,84 the late 1970s saw a major shift towards “good value” in the Australian cigarette market, internationally unprecedented in size and scope.61 Australia is not the only market to have experienced a change towards a value orientation. Internationally, in

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9 Dunhill's pack has recently been revolutionised to a smaller size and a contemporary solid-colour design, has abandoned gold, which is not surprising given research demonstrating Benson&Hedges' strong "gold" brand image, and has developed a new logo.
the mid 1980s, there was a move “away from classical image based brands to a wide variety of value for money offers” in cigarette marketing. However the mid 1970s Australian shift was notable for its size and scope at the time.

“Good value” was seen to incorporate price, imagery, and product elements, including perceived quality. Tobacco industry analysts have said that Australian consumers see “the same quantity for less money” as “decreased quality,” instead demanding more quantity for the same money, arguing: “the US generic approach of low price/lw image product has never been successful in Australia. Discount for quantity purchase is a pre-requisite for success. This belief is reflected across the entire consumer perishables segment.” In 1983 an international consultant observed that this approach of adding value rather than reducing price seemed to remove the stigma from smoking cigarettes that cost less per stick.

The mainstream cigarette category was created by two new, successful brands, Winfield (25s) and Peter Jackson (30s), which capitalised on the Australian smokers’ desire for more for the same price. Larger packs offered the manufacturers economies of scale and also increased smokers’ consumption. The shared core element of mainstream brands was a good-humoured “fair go” for ordinary Australians. The category’s brand identity thus contained quality/value elements (a fair go), user elements (for ordinary Australians) and personality elements (egalitarian good humour).

Both brands foregrounded “a fair go” in their initial positioning statements, Winfield as “5 smokes ahead of the rest” (25 cigarettes rather than 20) and Peter Jackson as “30 of the best at a popular 25s price,” and later “Best value in Australia.” Both emphasised full or added length to further strengthen this positioning. The value emphasis was supported by “intense image development program[s] to obtain smokers’ loyalty and resilience to competitor initiatives,” which included elements of brand as product, person and symbol.

Winfield’s brand-as-person element, an irreverent “Aussie bloke,” was provided by the actor Paul Hogan. He starred in Winfield’s humorous advertising campaigns throughout the 1970s, advising “…anyhow* have a Winfield,” with a calm grin, in the context of bizarre, challenging or hopeless situations. This was welcome advice in a context of recession and
Figure Six: 2001-3 Horizon retailer print advertising showing blue tones and relaxation brand essence via cloud on pack and association with coffee.

Figure Five: 2001-3 Peter Jackson retailer print advertising featuring dubious Stonehenge visual joke: the text reads “it’s no mystery that some things stand the test of time”
youth unemployment. Accordingly, Winfield's smokers were younger, slightly more male and of lower SES: Winfield was particularly “for those starting to smoke.” Although Hogan was removed from the advertisements in 1980 on the grounds that he appealed to children, the strong association meant that he continued to be a high profile “walking advertisement for Winfield,” and longstanding “Winfield Cup” sponsorship of Rugby League football helped sustain the masculine Aussie personality of the brand. In retail advertising Winfield continues to draw on the “…anyhow” positioning statement and the representation of humorously hopeless situations with a masculine Aussie bent, as seen in Figure Four.

Peter Jackson’s mainstream Aussie humour was communicated through the positioning statement “Peter Jackson: you’re laughing.” Its brand identity included a quality edge, intended to be communicated through pack, advertising, premiums and event promotions. The brand relied heavily on associations with motor racing, but also softened brand-as-symbol elements over time to become less aggressive and masculine and thus further differentiate from Winfield. In current advertising to retailers Peter Jackson has abandoned the “you’re laughing” positioning statement and positions itself primarily as a “good business” brand. The core mainstream “fair go” promise is made directly to retailers, reinforced by somewhat dubious visual humour, also in line with the shared core elements of the brand category (Figure Five).

Mainstream brand image has varied. In consumer research in the 1980s, smokers agreed that Winfield was lesser quality than premium brands, but Winfield’s own smokers saw it as a “respectable”, value for money brand, mirroring the brand’s identity. Premium smokers, in contrast, emphasised poor quality, seeing Winfield as smaller, looser, cheap, with a “burning” taste, and found Winfield’s symbols “unattractive.” In the 1990s, Winfield smokers described their own brand to be higher quality than Peter Jackson. Supervalue smokers characterised mainstream cigarettes as “everyday” but also as out of their league because they were “quality” brands, not far behind premium brands. In 1993 these smokers still linked Winfield to Paul Hogan, describing the brand as “quality, Paul Hogan, average bloke - cheeky, Australian” and Peter Jackson as “average bloke, standard, cigarette machine, Australian.”
The supervalue segment

The success of mainstream offerings plateaued in the late 1980s, undermined by growing pack sizes that created a new category dubbed "supervalue."91 Packs of 35 and 40 grew to 20.5% of the market in 1988/9, first with Stradbroke and then with Longbeach as the first full-specification 40s product.61 Holiday was the first 50s in 1991, followed by Horizon as the first full size 50s. PML attributed the rise of supervalue to increasing taxation, and the fact that "the aggressive activity of the anti-smoking lobby had impacted significantly on the social acceptability of smoking, which had in turn diluted considerably the traditional benefits of an image platform for brands."61 In addition, manufacturers had been prioritising market share over profitability, "diluting the value of trademarks through a focus on value, which can easily be duplicated or surpassed by competitors, as opposed to consolidation of image providing a unique value (i.e. not price) to the trademark. This has been reflected by switching rates - over 33% of Australian smokers are now switching within a 12 month period. This problem is likely to be exacerbated by draconian [marketing] restrictions..."61

Documents from this period resonate with the general dichotomy in the marketing literature between "brands" and "commodities," expressing fears that without effective brand building and in the presence of price discounting, Australian cigarettes could become commodity items.35,96-99 Premium and mainstream brands were suffering and it was feared that the trend might spread to other countries.99,100 Rothmans, manufacturer of Winfield, had a 33% profit decline in 1990/91, and a further decline of 70% in 1991/92,101 and Rothmans' competitors were exasperated with its apparent disregard for brand equity.99,101 Despite Winfield being a major competitor for the brands of PML, Henry Goldberg, PML's Managing Director, was extremely concerned about the erosion of Winfield's brand equity and price position, and concluded "any increase in legitimate market expenditure by Rothmans would be a welcome return to them re-building brand equity."99

Despite the dangers, the trend culminated in a "damaging and peculiarly Australian price war",66 which was financially unsustainable for the industry.62,102 The fact that larger pack sizes further increased the cigarette consumption of individual smokers61 was poor compensation for the tiny margins on large packs and the loss of smokers from brands with larger margins. It seems that at the height of the price war manufacturers were desperate enough to seek market share at the expense of current profit, presumably in the hope that
share increases would convert into brand-loyal future consumers prepared to pay higher prices. WD&HO Wills' Horizon 50s, launched in 1991, reportedly had zero margin.36 Although the companies developed the technology to produce 60s and 65s preemptively,36,37,99 it was not used — by 1993 supervalue growth had flattened, and the 5% per annum decline in mainstream and 1.5% per annum decline in premium had stopped.99 However the damage to premium brand equity was considered lasting.63

The most important core element of supervalue brand identities, the key to their positioning, and the prime motivation of their users, was value for money, and pricing was a vital component of the brands' marketing strategies.66,103 Supervalue users were older, more female, poorer, heavier and longer term smokers, who purchased from grocery shops.73,103 However, the industry saw the core value for money element as an insufficient basis for long term supervalue brand equity.63,64 Thus brand-as-person and brand-as-symbol elements were created. These were intended to have “an attitude of freedom, escape [and] mildness” and to be aspirational.91,103-105 Blue tones were used along with waterside scenes implying escape, freedom and relaxation,63,73,103-105 resonating with familiar Australian narratives of beachside summer holidays and coastal retirement. The early positioning statement for Longbeach, “You’re miles ahead,” presented against scenes of long deserted beaches, exemplified the link made between the core brand identity element of “value for money” and the core elements of waterside escape and freedom.36,91,105 Because Supervalue brands were launched close to the introduction of the TAP Act, this positioning has relied heavily on the point-of-sale and the pack.64,73 Figures Six to Eight show advertising from retail magazines for supervalue brands, all demonstrating the core brand category elements: value for money, water and freedom. Positioning of the least successful supervalue brand, Holiday, shows that its brand-as-person and brand-as-symbol elements had been downplayed and its value proposition reduced to little more than “lowest price”, consistent with Holiday’s position as the bottom-of-the-market “commodity” brand.

Brand image information from market research done by the tobacco industry has showed a clear division between supervalue brand smokers and non-supervalue brand smokers. Smokers of all brands saw supervalue as “budget” brands.97,73 Non-supervalue smokers saw them as thin poor-tasting cigarettes, not value for money and only attractive in terms of price.83 Winfield smokers defined supervalue brands as “not Winfield” and therefore “no
Figure Seven: 2001-3 Longbeach retailer print advertising –
brand category essence of beach and relaxation evident along with blue tones

Figure Eight: 2001-3 retailer print advertising for the least successful supervalue brand, HOLIDAY: holiday essence communicated only through the pack hero, blue tones evident. Emphasis on relative price: text reads

"Through every price rise, HOLIDAY still offers your customers the: Lowest 20s Lowest 30s Lowest 40s"
name” (the Australian colloquialism for generic brands).\textsuperscript{83} Non-supervalue smokers also described the brands as “cheap looking” and did not respond positively to the classic supervalue symbols of beach scenes. They described supervalue smokers as immature, bland, wimpy surfers, and effeminate.\textsuperscript{83}

In contrast, supervalue smokers saw the brands as being reasonable quality for the price, providing “more for your money,”\textsuperscript{83} and supervalue users as happy, relaxed, easy-going, “Aussie lifesavers”, popular, outgoing, male or female, and importantly, as someone who looks for quality and value and thus “beats the system.”\textsuperscript{83} Supervalue smokers described the beach symbols as a drawcard, as empathetic, desirable, appropriate to the brand, and providing space, freedom, relaxation, and contentment.\textsuperscript{83} Supervalue smokers also seemed to view their own brand in a disproportionately positive light, describing them as “not shrunken”, flavoursome, easy to smoke, well priced, “the best of the big packets,” and popular.\textsuperscript{83} Longbeach smokers saw Longbeach as better quality than mainstream brands or other supervalue brands.\textsuperscript{83} Horizon smokers visualised their brand’s personality as “a seductive woman walking along the beach,” calm, relaxed and “floaty.”\textsuperscript{73} Holiday had a poor brand image with Horizon smokers, seen as bad quality, “cheap and nasty,” loud/busy/noisy” and thin, and Holiday users were “people who can’t afford smokes” and “street kids.”\textsuperscript{73}

**Brand failure: Marlboro in Australia**

As a BAT Co. Marketing Intelligence Department document observed in 1994, “there are virtually no markets, excluding Australia...where Marlboro has failed.”\textsuperscript{106} In 1976, the year Winfield was launched, Marlboro had a 12.5% brand share, and 55% of Marlboro smokers were under 25. By 1989 Marlboro had only 2.7% share and only 11% under 25, despite PML’s sacrifice of profit margins to try to bring it back.\textsuperscript{77,107} Marlboro remained PML’s “biggest problem” throughout the 1980s and 1990s, despite high brand awareness and consumers reporting that it was a cigarette “for Australians.”\textsuperscript{89} The failure has been attributed to the success of mainstream, supervalue and low tar; Marlboro’s strong flavour and smell, atypical of Australian blends; and inconsistent and inappropriate brand positioning, including the Marlboro Man, seen by some Australian audiences as a cultural imperialist.\textsuperscript{89,107}
Attempted solutions between 1980 and 2000, with close involvement from PM's international offices, were focused on increasing the flow of teenage starters to the brand, and addressed elements of brand-as-product, brand-as-person and brand-as-symbol. They included PMI almost immediately taking over advertising (imposing the American cowboy, considered a "mistake" by WD&HO Wills), importing US soft packs (1983), decreasing pack size (1984), and "making the advertising appealing to younger smokers who are in the process of forming brand preferences" (1984). There was also an attempt to change the blend to "make it harder for existing smokers to leave the product." Project Classic, a re-launch of the original 20s as a cult, individualistic, "Fully Imported from the USA" brand also did little, despite being designed by Leo Burnett, the advertising agency responsible for the Marlboro Man.

By 1993 PM were so desperate that, along with another modified blend and an "Australian version of Marlboro Country [to try to] rebuild Marlboro's big brand image," Marlboro's price was lowered to parity with Winfield, effectively putting Marlboro in the mainstream segment in terms of price, and potentially undercutting any aspirations to the premium essence of "quality." It continued to "behave like one of the minor, unsupported brands." However PML continue to support its flagship international brand strongly in retail advertising, with as many advertisements as the Australian market leaders, although fewer on multiple pages or covers (Table Nine). Growth has remained slow and inconsistent, with share still minimal at grocery but up to 5% at convenience.

**DISCUSSION**

These findings suggest that brand equity is a shared strength and weakness of the tobacco industry. A market consisting of competing, robust brand identities with strong, positive brand images is the industry's assumed ideal, creating a more profitable market for all competitors. Equally, even unilateral undercutting of brand equity risks the introduction of an entirely price-based commodity market. However to retain equity, brands need to have a reference point in the market, which has settled into three brand categories, premium, mainstream and supervalue, each having core brand identity elements that are shared by its members. Although individual brands have additional core brand identity elements that make them more or less distinct from one another, it seems that their brand identities need to contain the elements of the category to which they belong to be successful. The failure
TABLE NINE: ADVERTISING IN RETAIL MAGAZINES IN STUDY PERIOD BY BRAND FAMILY

<table>
<thead>
<tr>
<th>BRAND FAMILY</th>
<th>Number of advertising instances</th>
<th>Number of advertisements on more than one page or cover</th>
<th>Percent of all advertisements on more than one page or cover</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winfield</td>
<td>15</td>
<td>8</td>
<td>19</td>
</tr>
<tr>
<td>Marlboro</td>
<td>13</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Longbeach</td>
<td>13</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Peter Jackson</td>
<td>12</td>
<td>6</td>
<td>14</td>
</tr>
<tr>
<td>Benson &amp; Hedges</td>
<td>11</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Alpine</td>
<td>10</td>
<td>8</td>
<td>19</td>
</tr>
<tr>
<td>Dunhill</td>
<td>5</td>
<td>5</td>
<td>12</td>
</tr>
<tr>
<td>Peter Stuyvesant</td>
<td>5</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Holiday</td>
<td>5</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>West</td>
<td>4</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Horizon</td>
<td>4</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Lucky Strike</td>
<td>2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Kent</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100</td>
<td>42</td>
<td></td>
</tr>
</tbody>
</table>

of Marlboro in Australia may be at least in part due to its poor fit with Australian brand categories. As an international premium brand it certainly does not belong in the supervalue category, but its image also lacked both the core premium brand element, quality, particularly after its price was cut, and the good humour and ordinary-Aussie user associations that formed the core of mainstream brand identities.

All of the brand identities discussed in this chapter were created before the introduction of the TAP Act in 1992, although the various supervalue brands had only one to three years to establish themselves via print, billboard and radio advertising, and have thus relied almost entirely on point-of-sale and the pack for positioning. However brand image research conducted by the industry after the introduction of the TAP Act showed striking congruence, for successful brands, between brand identity and brand image. As noted in the introduction, brand images are created cumulatively over time. Thus consumers' perceptions are likely to be based both on current marketing through available channels, and the brands' historical associations (exemplified by Paul Hogan still being linked to Winfield in smokers' minds 13 years after he was removed from the brand's advertising).
It is also clear that brand image is relative—the perceptions of smokers of supervalue brands differ substantially from those of premium brand smokers. This suggests some fundamental differences in the ways in which different smokers approach and choose between cigarette brands: that particular brand identities, or brand category identities, may resonate for particular smokers. Brand management principles can be applied to any communicative task, and it seems reasonable that the brand identity elements that hold brand categories together may have potential for use in quit messages or media advocacy. Premium smokers may particularly respond to the brand-as-product element of quality, and may be more responsive to messages that suggest that they are sophisticated. Mainstream smokers may appreciate familiar user elements (for ordinary Australians) and personality elements (egalitarian good humour). Both mainstream and supervalue smokers may respond to the idea of a "fair go" or "value for money," for example, offers that made cessation treatments more affordable. Smokers of supervalue brands may prefer symbol and personality elements of escape, relaxation, freedom and aspiration.

This potential could be further explored through research, as there are many questions not answered here. How loyal are Australian smokers? How distinct are the smokers of the three brand categories? Are smokers meaningfully differentiated by their brand choices? How do smokers relate to cigarette brand identities? Could the elements of these identities be used to destabilise commitment to smoking? Might smokers respond to different quit messages, as they have responded to differences in branding? Given that mildness is an inherent trait of successful brands, could accurate information about "low tar" cigarettes be a particularly effective quit communication in Australia? Given the success of local, "Aussie" brands, could the multinational nature of the industry be a useful frame for reducing the industry's social acceptability?

This raises a glaring gap in Australian cigarette brand identities: brand-as-organization. Aaker proposes that characteristics of the organization, such as innovation, trustworthiness, or its local or global character, can be used as brand identity elements. However Australian cigarette brand positioning is relatively silent on this point. Australian consumer research has suggested that consumer trust in general is declining, creating a more critical and vigilant audience for brands that demands that products and the businesses behind them live up to their brands' identities. Anti-corporate activists have
been using the brand-as-organization element in their campaigns for years, associating Nike with Asian sweatshops rather than athletic tenacity, for example, or Starbucks with global and local market thuggery rather than the creation of community.27

A common means to subvert brand identities is via modification of existing brand advertising such as billboards. This was important to Australian tobacco control before the TAP Act,112 and could still be of benefit in other markets, but is no longer relevant in Australia’s restricted advertising environment. However both traditional advocacy and campaigns in the mass media and via other channels could be used to creatively subvert brand positioning and to link brands to company activities incongruous with that brand’s identity (for example, to highlight the profits made on the popular, supposedly “good value” mainstream brands).

The Australian industry has acknowledged that tobacco control activities have seriously undermined brand equity in the cigarette market, not least by regulation of tobacco marketing. This work demonstrates the complexity of brand identities, and that brand image lives on in consumers’ minds after the restriction of above-the-line marketing. Brand image is tenacious and is far more than a simple trademark, incorporating elements such as user associations and longstanding relationships between smokers and their brands. Brand-as-product, brand-as-person and brand-as-symbol elements should be considered in regulating cigarette marketing. Obvious remedies are the removal of point-of-sale marketing and the introduction of generic packaging, but even generic packs, if offered in the three existing brand categories, and particularly if they can be readily linked to previously existing brands, are likely to benefit from historic brand identities. It may be that existing brand identities will live on until a restructured generic cigarette market can be introduced.

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CHAPTER TEN GOING BELOW-THE-LINE: CREATING TRANSPORTABLE BRANDS FOR AUSTRALIA'S DARK MARKET

INTRODUCTION

The purpose of the research reported in this chapter was to understand the marketing strategies used by the tobacco industry in Australia's highly restricted marketing environment.

The retail environment is extremely important in Australia's dark market, and will be discussed in the next chapter. The cigarette pack, also an important marketing tool in Australia, has already been explored in the literature.¹²

GLOSSARY OF TERMS

Above-the-line (ATL): marketing via the mass media (print, television, radio, posters/billboards and cinema)
Below-the-line (BTL): marketing via methods other than mass media
Brand stretching: promoting a cigarette brand via the marketing of non-tobacco products under the same brand
Cut-through: getting noticed by the consumer above the "noise" of the crowded marketing environment
Dark market: highly restricted marketing environment
Guerrilla, buzz or viral marketing: marketing that appears not to be an advertisement, but rather creates an environment (e.g. street graffiti, parties, websites, conversations with peers) consistent with a brand's identity, in which the brand "coincidentally" appears
Out-of-home marketing: billboards, or outdoor advertising
Point-of-sale (POS) marketing: the arrangement of product and placement of promotional material in retail stores; POS is called point-of-purchase (POP) in some markets
Premiums: branded gifts, usually with purchase (for example, buy two packs, get a free lighter)
Good marketing integrates above-the-line and below-the-line strategies

There are two kinds of marketing strategy that can be used to promote any product: "above-the-line" strategies (ATL, essentially advertising in the mass media) and "below-the-line" strategies (BTL). These category names reflect the business practices of advertising agencies. Agencies generally make commission on placement of advertisements in newspapers, magazines and cinema, and on television, radio and billboards, a fee that appears "above-the-line" on their bill. Traditionally, other forms of promotion, such as events, point-of-sale displays, direct marketing, premiums, price reductions, news media activities, sponsorship, trade shows, exhibitions, sales literature and catalogues, were charged at a fixed fee and thus appeared "below-the-line".

Traditionally ATL and BTL strategies have been considered distinct, and BTL the poor cousin. In fact, some agencies have argued that BTL cheapens a brand and undermines long-term brand prospects. However increasingly BTL strategies are recognised as economical, unique and personal ways to achieve cut-through in the super-saturated advertising environment. Some marketing theorists and practitioners now argue that ATL is relatively unsophisticated and poor value, particularly for young, cynical, media-savvy markets. The key to powerful marketing, and standard marketing practice, is now the integration of a range of complementary ATL and/or BTL strategies to provide multifaceted support for a brand.

The tobacco industry: a special kind of integrated marketing

This general shift in marketing away from the presumed superiority of ATL and towards integration and the power of BTL has special significance for the tobacco industry. Australian tobacco marketers are expert at integrated and BTL marketing. However, as they acknowledge, they have developed these skills not to keep up with other industries, but because the Australian tobacco market is among the darkest in the world. Because of progressive regulation, the Australian cigarette industry has been forced into dependence on creative BTL strategies alone to formulate an integrated marketing mix.
The new BTL: guerrilla marketing

Since the late 1990s, for all kinds of products but particularly those for youth markets, BTL has included techniques known as buzz, viral or guerrilla marketing. These techniques are thus named because they are intended to create a word-of-mouth buzz, to spread like a virus, or, most importantly, to subvert the transparency of commercial messages, making a consumer think that they are discovering something for themselves when they are in fact an advertising target - thus guerrilla. The phenomenon of making people think they are finding something independently is also central to coercions such as pyramid selling and cult recruitment.14 Guerrilla marketers may, for example, pay teens to talk to their friends about a product, commission footpath graffiti, or create an event or a website which, rather than containing overt brand imagery, is consistent with the image of the product and, apparently coincidentally, contains it, without overtly delivering a selling message.

Guerrilla event marketing for tobacco is well-developed and documented in Australia, via journalism, tobacco control research and the courts. There are many examples. One news article, for example, reported on a high-profile fashion designers’ after-show-party, bankrolled by a cigarette manufacturer, that featured cigarette-bearing models.15 Another series of events which have been widely discussed were the “Wavesnet” dance parties and fashion shows for young women, which featured a wide range of “feminine” products, including cigarettes, were promoted via the street press, and followed up with questionnaires to party-goers about their smoking. PML has pleaded guilty to the charge that one of these events was cigarette advertising.16,17 Importantly, the people attending these events did not expect cigarettes to be featured, and in some instances co-sponsors claimed not to know that tobacco money was involved.

RESULTS

Resilience, substance, transportability: keys to a dark market cigarette brand

In 1990, before the introduction of the TAP Act, PML launched a new (unsuccessful) brand, Belmont, to compete with Rothmans’ Winfield, and “to ensure a balanced aggressive portfolio entering the print ban era.”18 Belmont’s launch plan was classic integrated
marketing, combining out-of-home advertising, press inserts, point-of-sale, distribution, aggressive direct marketing by mail to Winfield smokers, and premiums in convenience retail outlets as incentives for both retailers and customers. Thirty hostesses in hotels and clubs offered samples and tradeups (a free pack of Belmont cigarettes for smokers in exchange for the pack of competitor brand being smoked), playing "a critical role within the tactical mix in gaining trial amongst targeted opposition smokers, building awareness and creating word of mouth communication."

In 2003, eleven years after the introduction of the TAP Act, marketing, in an evolved form, retains its central place. Indeed readers of British American Tobacco Australia's 2000 Annual Report could be forgiven for thinking the TAP Act was never passed. A typical sample: "Dunhill's presence as the leading super-premium brand was enhanced by a new and confident creative campaign in mid-June. This combined with a focus on building the brand's presence in bars and cafes saw Dunhill achieve market share growth nationally... [consumer research showed]... increased consumer presence and relevance." BATA's report consistently attributed improvements in brand share to integrated marketing activities, including the launch of product innovations such as "King Size" cigarettes, small and soft packs, and "new creative campaigns." In other forums manufacturers have explicitly discussed the value of their guerrilla marketing.

As early as the 1970s, manufacturers made careful plans to manage regulation by "establish[ing] unique images for leading brands and at the same time ensur[ing] that after above-the-line phase out, the advertising campaigns already built could be easily transferred to... other media." Many Australian industry documents, both pre- and post-TAP Act, frankly discussed the need to maximise the impact of remaining advertising opportunities, develop "instantly recognisable" brands, continue to research innovative new promotion techniques and gradually adjust advertising strategies to acclimatise consumers before regulation was enforced.

**Transportable old brands instead of new brands**

The frequency of brand launches in Australia started to slow in the 1980s, due to frequent failure of new brands and competition pushing the price of brand launches to "astronomical
levels]. However, since the TAP Act, launching new brands has been seen as frankly wasteful. As one retail industry writer noted:

“the ever tightening legislation has... put paid to a constant parade of new brands – it’s difficult enough to promote existing “old favourites” without trying to launch something new without promotional opportunities... the companies have to be constantly creative with what they’ve got.”

The loss of ATL was seen as a terrible blow. R.J.Reynolds complained in 1997 that “the brand awareness goals set for a new brand or line extension that Australia used to reach in three to four months via print, billboard and direct marketing now take them two to three years to achieve. New brands have been almost impossible to launch.” In preparation for this media desert, new brands were launched in the dying days of ATL in Australia in an attempt to create brand awareness before the market became darker, and R.J.Reynolds advocated this method in other markets in response to the Australian experience, recommending:

“any propositions with merit should be launched while you still have full colour, [out-of-home], print & direct marketing. The hell you put field sales through and the trade through will pale compared to the hell you face getting a new proposition to jell after the bans.”

After the TAP Act, instead of launching new brands, manufacturers have enriched existing brand personalities and developed new variants within existing brand families, focusing on a small number of brands with pre-existing high awareness and strong campaigns where possible. The best example of this transportability is the Hogan-Winfield campaign, with its bizarre mishaps, strange activities or unsolvable problems and the reassuringly good-humoured positioning statement “...anyhow have a Winfield,” described in the previous chapter. The format and slogan, without Hogan, are still in use on pack outsers (cardboard wrappers placed around the pack) and in retail advertising thirty years later, helping to maintain Winfield in its number one position in the Australian market. (Figures Nine to Eleven)
Figure Nine: 1970s Winfield print advertising to consumers with Paul Hogan providing brand-as-person element and the ...anyhow* positioning statement

Figure Ten: 2003 Winfield pack outsert featuring ...anyhow* positioning statement and "masculine" visual joke about tangled fishing lines catching the same fish

Figure Eleven: 2001 to 2003 Winfield print advertising to retailers featuring ...anyhow* positioning statement and "masculine" visual joke about a prize fight conflicting with a wedding anniversary
The strategy

The Australian dark market strategy appears to have been as follows. Before the restrictions were introduced, big powerful brands were selected, studied and strengthened to ensure continued potency after the bans. In the lead-up to the ban, spending on BTL was increased to prepare the consumer for the changed environment. After the restrictions were introduced, novelty was introduced within brand families through broader variant ranges (particularly in the supervalue and mainstream product categories) and product changes. Novel offerings included round-cornered packs and American style soft-packs for premium cigarettes and more modest pack changes (largely in graphic design) for mainstream and supervalue cigarettes. As noted in the previous chapter, there was a new emphasis on mid-range (6 to 8 mg) tar banding, Australia’s fastest growing tar segment, which also appears important to the overall strategy. In addition, when 1999 taxation changes made it financially viable, brands which had traditionally only been available in large pack sizes diversified into small packs of 20 or 25.

These offers provided flexibility and novelty for consumers at the margins of a known brand identity, and made marketing expenditure more efficient for the manufacturer as the existing brand identity provided infrastructural support for the new line extension. Loopholes in the legislation were also sought to sustain brand images in the mind of the consumer by any available below-the-line means. Loopholes were extended as far as possible, denying the spirit of the law and sometimes complying with the letter only when forced. Rothmans’ head office noted in 1997 regarding Australian point-of-sale advertising: “local tobacco companies tend to stretch meaning of regulations and only removed [advertising] after retail warning was issued.” Cementing and sustaining a continuing personal relationship between the consumer and their brand was the priority. As PML argued in 1990: “going out and directly contacting our key target consumer is becoming increasingly more important, particularly in light of the upcoming media ban... we must now talk to the consumer face to face...”

BTL (and ATL) activities after the TAP Act

After the restrictions were introduced, the manufacturers discussed a wide range of channels available to communicate with their consumers and promote their priority brands. In addition to the guerrilla marketing already discussed, these have included:
1. advertising in imported international magazines;
2. altering the pack;
3. sponsorships;
4. brand stretching;
5. event promotions;
6. lifestyle premiums; and
7. the development of corporate websites.

**International magazines**

Tobacco advertising is permitted in magazines that are both printed outside Australia and "not principally intended for distribution or use in Australia" and these have been targeted by the industry to gain a foothold.39-42

**Delivering novelty via the pack**

Manufacturers have printed on the inside of flip-top packs, printed on or changed the colour of the foil inside the pack, subtly changed pack design to provide novelty, and used pack and carton inserts, outsers and faces to display advertising imagery (as in Figure Ten and Figure Twelve.) Outsers are cardboard wraps around a pack or packs, used (as shown in Figure Ten above) to join two packs into a single "mini-carton" and to display advertising imagery.30,43-45 Because of the importance of the pack, the industry fears the introduction of generic packaging. However there is some suggestion from the documents that industry managers believe generic packaging is only "a short step" from the placement of products under the counter in retail stores, and is possibly "achievable [in Australia] in the long term," particularly given the link to youth smoking.46

**Sponsorships**

The TAP Act currently permits "sponsorships of international significance," and the documents show that manufacturers saw these sponsorships as vital to consumer cut-through; selected them for their brand synergy; and funded them both to market that brand via television and individual consumer attendance at the events and to provide opportunities to entertain VIPs.22,36,38,40,45,47-51
The importance of sponsorships is illustrated by an unusual exception to the "no new launches" rule: the recent launch of West by ITA in Victoria, which houses the sponsorship exempted International Formula One competition. West was launched to coincide with the West/McLaren team winning the Victorian F1 in March 2003, underlining the synergistic power that the industry perceives international sponsorships to have in a dark market.

**Brand stretching**

Although the manufacturers have repeatedly denied that trademark diversification promotes tobacco products, their stated intentions to use brand stretching, and a statement by an R.J.Reynolds executive that Australian manufacturers were "highly regretful that they did not move very early in the game to extend the reach of their trademarks well outside the tobacco category ... for constant reinforcement of brand positioning" belies the claim.

**Event promotions**

Promotions, sampling, competitions and sweepstakes via special theme nights at nightspots, pubs and events and via mail and toll-free phone lines have been designed to "get our product into the hands of opposition smokers in an involving way." "Sell no tell" hostesses in branded costumes at nightspots have also been used. The industry's argument has been that because these models sell the product but do not talk about it, they are not engaging in advertising.

**Lifestyle premiums**

"Lifestyle" premiums such as diaries and entertainment guides were established as branded tools before TAP, and then continued after TAP in brand colours only, with the branding reinforced through point-of-sale displays.

**Corporate websites**

Although corporate websites do not contain brand advertising, they may serve a brand-as-organization function, particularly given that the manufacturers, including their websites, are commonly named on cigarette packaging. In March 2000, Eric Windholz, attorney with Philip Morris Corporate Services, wrote of PML's new corporate website: "as you are no doubt aware, our ability to communicate about the Company and its positions through
traditional media is severely restricted. As a result, the website takes an added significance [sic].”

A detailed example: the resurrection of Peter Stuyvesant

As noted in Chapter One, the Imperial Tobacco group entered the Australian market in 1999. Shortly afterwards ITA appointed an agency to manage more than $10m worth of below-the-line marketing activities. Peter Stuyvesant, an old and previously successful brand that sank into obscurity in the 1990s, is now being revived as ITA’s key premium small-soft-pack product, providing a good illustration of re-branding and growth in the absence of ATL. Sizeable risks have been taken to extend the brand’s silver and blue retro styling, which is also reflected in the image-based retail advertisements for the brand (Figure 13). Small silver and glass cabinets displaying only the Peter Stuyvesant soft pack range have been installed illegally in places such as cafes where cigarettes are not usually sold, minus the usual health warnings, allowing the brand a glamorous solo presence until detected by authorities. Arresting photographic advertising images on carton-sides have been used to provide eye-catching displays in-store, and special brand-blue plastic display modules have been provided to sit over the regular pack dispensers, highlighting the brand within the unit and providing clear pack face display (Figures 12, 14, 15).

ITA has obtained the “exclusive right to sell cigarettes” (not the right to “sponsor”) at popular music festivals, and the right has been exercised creatively with the assistance of Peer Group Media, a company specialising in youth marketing and headed by the editor of a local music magazine with impeccable street credibility. ITA appears to be hoping for some memory of and resonance with the brand’s old slogan “your passport to international smoking pleasure” (which, if recalled, would offer camp retro irony for young Australians). Cigarettes have been sold by “air hostesses” in dedicated tents at festivals, along with clothes in suspiciously similar livery made by a separate company under a “Beaver Discovery World Air (DWA)” brand. One of these festival appearances was linked to similarly retro-chic club nights, also under the DWA brand, promoted as a follow-up to the festival. Invitations included a fictional back-story for the company that also emphasised the brand heritage brand-as-symbol element of air travel (Figure 16). The URL on the

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a Personal observation, NSW, 2002
invitations led to a single web page which now instructs "we'll have something special real soon, but for now, go look at porn" and is linked to ironically un-sexy websites on subjects such as fly fishing and barn dancing. A silver metal Peter Stuyvesant cigarette case, branded and perfectly sized to contain a soft-pack and thus cover the health warning, has also been made available at music festivals.

Australian Convenience Store News observed in 2002: "Peter Stuyvesant's strength in the premium market is obscured in the aggregate market share data. Its share of the convenience store premium market increased from 11.6% to 13.2% last year... [it is] growing in the strongest segment, in particular the 20s pack size." A review of AC Nielsen C*Track (convenience scanning) value share data from 2002 showed four Peter Stuyvesant products in the national top 40, and the total family ranked between sixth and tenth by state, with value shares from 2.0 to 6.6% of the state markets – no mean feat for a previously "uncool" brand. Given that young smokers are fond of convenience stores, premium brands and small packs it seems highly likely, given the marketing strategies, that at least some of this share growth has come from young smokers.

Figure Twelve: Detail of Peter Stuyvesant carton

A picture of this case is available at http://www.ashaust.org.au/pdfs/StuyvTim02.pdf
Figure 13: Peter Stuyvesant retailer print advertising

Figure 14: Carton art in standalone display unit

Figure 15: Plastic display unit

A new class of business for Beaver

In 1975, a young man named Derek Winkle has a vision and that vision has to create a super company incorporating all the aspects of the modern life. Unfortunately, Derek's life will end shortly in a horrific plane crash, leaving the legacy of his vision for the only child Eric Winkle. Now 27 years later, his legacy is all it's original genius half-arrived. Welcome to Beaver Enterprises.

Beaver Enterprises

Discovery World Air is yet one of the many Beaver pursuits, with its international airliners catering to the most discerning of passengers. As part of Brower's mantra, an aim to provide all passengers with the ultimate in chilled comfort at dizzying heights. Whether that be through our generous in-flight entertainment or the relaxed Passport Suites, at all our airports. Who?

Want to know more?

Figure 16: Fictional backstory for Beaver Discovery World Air
DISCUSSION

There are three main conclusions to be drawn from this material. First, the industry acknowledges that marketing restrictions have an impact, validating their continued use in tobacco control. Secondly, the industry is extremely creative in circumventing these marketing restrictions, requiring tobacco marketing regulations to be informed by marketing expertise, regularly updated, and to adopt the broadest possible scope. Thirdly, tobacco control advocates, particularly those communicating with young people, could learn from the creativity of the tobacco industry.

Some may argue that brand choice is inconsequential to tobacco control and that manufacturers' ability to, in their words, "simply compete for brand share" is not the proper jurisdiction of tobacco control. However this is belied by the enormous efforts expended by the industry on brand promotion, which is effectively an attempt to attract new smokers and keep existing smokers smoking. Brands and their transportability in a dark market are central concerns for the industry, and thus should be a central concern for tobacco control.

The industry clearly acknowledges that ATL advertising bans disrupt their business, making consumer awareness harder and more time consuming to achieve. However, even in a heavily restricted market, the cigarette industry keeps advertising. Despite the pain and reduced efficiency resulting from loss of ATL, BTL is stretched in innovative ways, and manufacturers breach the law (until caught) for short-term benefits. Industry documents and observation suggest that the pack, point-of-sale, international sponsorships and guerrilla marketing are the most important frontiers in a dark market. Advertising in imported international magazines, brand stretching, lifestyle premiums and corporate websites also have a role to play.

The creativity of the industry in circumventing marketing restrictions highlights the need for truly comprehensive bans, addressing every aspect of all of these marketing activities. "Generic" packs, for example, would require complete standardization: simply prohibiting current trademarks will not suffice. Inserts, outserts, foil, wrap, image, colour, typeface, printing on the cigarette rod, rod colour and tipping paper, and even scent would need to be considered, as there is an Australian precedent for using scented foil for menthol cigarettes. These are all means by which brand identity can be communicated. As discussed in the previous chapter, a brand is far more than a visual trademark, and
disruption of brand differentiation will require disruption of all aspects of brands, not just their name and logo.

Manufacturers prepare themselves and their consumers for onerous regulation years in advance, selecting, building and transporting a strong set of existing brands into the regulated market. It follows that those contemplating regulation of tobacco marketing should closely guard proposals for marketing restrictions for as long as possible. Although this is inconsistent with usual due process, it could be argued that this industry has in fact relinquished its place at the negotiating table by deliberately and consistently flaunting the spirit of the law.

In a dark market, cigarette marketers create novelty for the consumer not by launching new brands, but by making new offers within existing strong brand families. This increases the efficiency and effectiveness of their marketing activities by removing the arduous task of attempting to launch a completely new brand concept without above-the-line. The provision of a vast array of variants within a brand family not only creates consumer novelty, but provides critical mass in the retail display: if only one pack of each variant can be displayed by law, four variants provide twice the space of two, eight variants twice the visual space of four, and so on, increasing brand impact. Regulation of marketing should, if possible, incorporate limits on the type and number of offers that can be made within a brand group, and the grounds on which products can be differentiated, with a particular eye for the truth of manufacturers' product claims.

Australian cigarette manufacturers are not unique: they mirror trends in promotion of all kinds of products to young consumers worldwide, and tobacco control would benefit from studying other highly competitive youth markets such as electronic games, energy drinks and fashion. Cutting-edge, practising marketing experts could also be consulted on future directions and potential loopholes, and assist with the construction of both counter-marketing and legislation. As tobacco control is up against some of the most talented guerrilla marketing professionals in the world, it should, like them, avoid over-reliance on relatively static and expensive ATL strategies. Integrated marketing is likely to be more effective marketing, in tobacco control as much as any other endeavour.

The detailed example of the dark marketing of Peter Stuyvesant suggests some potential lessons for a tobacco control "brand." Create a strong brand identity and communicate it
clearly. Ensure that every aspect of the consumer's experience of the brand is consistent with that identity. Integrate as many complementing marketing activities as possible to build your brand including BTL activities. Make your product stand out. Use humour, and let the consumer know that you know that they "get the jokes." Promote the brand in the consumers' own environment, particularly where they have fun. It is worth noting that the phenomenally successful "Truth" campaign in Florida, which raised awareness, changed attitudes and lowered smoking prevalence amongst teens, followed all of these principles.\(^{63-67}\) Most importantly when tobacco control is trying to monitor the industry's activities, it pays to remember that BTL marketing aims to create a "world" for the product that the consumer will feel a part of, and that world will complement the brand but will not necessarily be "branded". Thus a tent at a music festival, or a brown flyer for a pretend airline, may not carry the Peter Stuyvesant logo, or even be in Peter Stuyvesant colours, but if they create a world in which Peter Stuyvesant is available and seems "natural" or right, they can be very powerful forms of marketing. Comprehensive tobacco marketing regulation may need to be combined with cutting-edge integrated marketing of tobacco control to effectively counter the industry's continuing efforts to attract and retain customers.

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CHAPTER ELEVEN NEW FRONTIER, NEW POWER: THE RETAIL ENVIRONMENT IN AUSTRALIA’S DARK MARKET

INTRODUCTION

The purpose of the research reported in this chapter was to understand the marketing strategies used by the Australian tobacco industry in the retail environment.

Some international research has considered the role of the retailer in marketing. US research has shown that retailer incentive payments (for point-of-sale agreements) are growing; retailers receive proportionally more incentives from tobacco than other industries; and 81% of industry marketing expenditure is on these “promotional allowances,” through contracts which stipulate terms such as in-store placement and reimburse retailers for selling at cheaper prices. These programs have also been shown to be associated with increased levels of cigarette advertising and cheaper cigarette prices in shops. The US industry’s retail marketing plans have been shown to reflect the age, race and wealth of the retailer’s customers. Point-of-sale promotions appear to be used more extensively in contexts where other industry strategies are curbed by regulation, and quantitative studies published after the material in this chapter showed that US marketing dollars moved into the retail sector in response to the Master Settlement Agreement.

Retail marketing and relationship-building with retailers in the UK has also been described. One small study of retailer compliance with new marketing restrictions in Western Sydney showed a high degree of compliance, and suggested that non-compliant retailers had sometimes been misinformed by industry representatives. Other than this latter study, there has been little exploration of the significance of retail marketing in Australia in the literature.

RESULTS

The Australian industry has always used the retail environment as a conduit for personal communication with consumers. As early as 1955 Philip Morris promised retailers “free, top quality display material.” By the 1960s Australia was “a lively active market with a great
deal of aggressive advertising and point-of-sale," and Philip Morris employed 44
"salesmen." These salesmen serviced retailers and performed consumer trade-ups. In a
"trade-up," the salesman exchanged of a packet of Philip Morris cigarettes for the
cigarettes a consumer was smoking, an activity they were expected to perform
opportunistically everywhere they went. In the 1970s and 1980s manufacturers provided
retailers with everything from signs announcing opening hours, push/pull door signs, menu
boards and clocks, as well as in-store premiums (gifts with purchase, often linked to
branded sports sponsorship), hostesses, competitions, and "switch selling" programs.
"Switch selling" occurred when a customer asked for a competitor brand of cigarettes in a
shop: the company sales representative would offer to buy the customer a packet of their
company’s brand instead.16-19

The rise of retail as marketing was restricted

In 1992, a PML presentation argued: “new government restrictions are rapidly increasing
the importance of retail marketing as a part of the overall marketing mix. With this comes
aggressive competition for in-store space and importantly, cut through to the consumer.”20
Previous to the TAP Act, above-the-line had been the primary vehicle for building brand
image, and below-the-line strategies “provid[ed] important support for these established
images.”20 The “net result” of the TAP Act, argued PML’s spokesperson, was that “we must
now extend below-the-line programs to encompass the image building role… retail
marketing is therefore no longer the support mechanism, [but] the primary communication
vehicle.”20

In the early 1990s, before and after the TAP Act was introduced, the industry poured
resources into “big specials which both reward and involve smokers,”21 including gondola
end spectacles (large three dimensional displays covering the entire end of a grocery
aisle) competitions and sweepstakes, window displays, promotions in unique retail settings
such as cafes and video stores, premiums, and more frequent changes in imagery, all in
search of the holy grail of consumer attention and awareness.21-23 To create
“overpowering” beach imagery in shops in the early days of PML’s Longbeach brand, for
example, old two dimensional display units were replaced by “full 3D representations of the
beach environment,” including “beach chairs… sand, seagulls and even footprints on the
floor," supported by beach photographs incorporated into the pack, and themed premiums such as beach bags.20

On the eve of local sponsorship bans, PML wrote:

"as of 1996, the primary point of communication between ourselves and our consumers will be inside a retail outlet... In-store point-of-sale material, discounted stock units, on-pack premium offers, strategically located stock displays in-store (as well as in windows and showcases), need to be dominated by PML... In summary, the spend focus has shifted from media, outdoor and consumer promotions to in-store [point-of-sale management], contracting for display space, partnerships with retailers to build business, and international sponsorships."23

Accordingly, by 1995 PML already had "long term agreements with retailers to ensure a dominant point-of-sale presence" in preparation for restrictions.23

Responses to retail marketing restrictions

Given the increased importance of retail in a restricted marketing environment, it is not surprising that, as various states limited point-of-sale promotions, the industry's retail strategies constricted only incrementally and under duress. Mass displays of cartons were used to "paint a billboard," but were soon noticed by regulators.24 When regulation prevented point-of-sale displays from including brand logos, brand colours were used instead through balloons and streamers.24 The same occurred for premiums. Originally items selected for their resonance with brand's identity were branded with trademarks and offered as gifts with purchase. When trademarks on gifts were banned, the same gifts continued to be offered, in the colours of the brand, minus the trademark. In 1995, for example, smokers who bought two packs of Marlboro were offered a red cap with an F1 car (rather than a Marlboro logo) embroidered on it.23 When premiums for cigarette purchases were banned WD&HO Wills gave retailers cricket bats to raffle to consumers who bought "anything to the value of a carton of Benson & Hedges."23
Where possible, point-of-sale displays capitalised on the longstanding international sports sponsorships of the cigarette brands. This was seen by the manufacturers to provide “unquestionable legitimacy” at the point-of-sale: the familiarity of the link between the sport and the product, and the synergy between the display and the sport, making consumers more comfortable with the marketing. Manufacturers remain willing to test the law – with, for example, a recently used custom-made silver bar-refrigerator holding Alpine cigarettes for sale in shops, illegal in NSW but tested by the manufacturers anyway.

One PML document stated that the company believed legislation forcing all cigarette products below the counter was probable across Australia in the medium term.

The new power of retailers and the industry’s response

Retailers are important to tobacco companies, as almost all cigarettes are sold in retail shops. Conversely, tobacco products are an extremely important category for many retail businesses. Unfortunately the retail sector is complex and availability and quality of data from public sources on retail cigarette sales is inconsistent, and thus difficult to summarise. The most comprehensive review available suggested that the margin of sales from cigarettes and tobacco as a proportion of gross margin was 71% for tobacconists, 20% for petrol stations, 17% for convenience, 11% for grocery and 8% for mixed businesses. ACNielsen creates an annual “Top 100 Brands” report on the grocery/supermarket sector based on sales value, and tobacco brands reliably inhabit six out of the top ten places in this list, beaten only by Coca Cola. A report on the convenience store sector based on data from 2000 showed that the “cigarette” category accounted for 34.68% of total sales, far exceeding the next largest categories, beverages (12.7%), milk (8.03%) and confectionery (7.86%). Although the data are difficult to pin down, there is no doubt that tobacco is important to the Australian retail sector.

Despite this apparent dependence on tobacco, a combination of the disappearance of ATL and concentration of the grocery market in Australia has put large retailers in particular in a strong negotiating position, and their loyalty is not guaranteed. Cigarette manufacturers maintain their relationships with retailers through five channels:

* A picture of this display unit can be viewed at http://www.ashaust.org.au/Lv4/Lv4resources_tobacco_ads.htm
1. trade promotional expenditure;
2. in-store display hardware and assistance with point-of-sale marketing;
3. corporate advertising and alliance building;
4. brand advertising direct to retailers; and
5. a new, innovative electronic distribution system.

Trade promotional expenditure

Trade promotional expenditure (TPE) consists of retailer rewards, retailer loyalty programs, rebates and price supports. Price support and rebates direct to the retailer have been important since at least the 1960s and are increasingly so as discussed in Chapter Nine, in the absence of above-the-line advertising, pricing strategies become an increasingly important component of marketing. Loyalty programs, in contrast, provide personal rewards to the retailer. In 1995, for example, PML ran an incentives scheme where retailers who placed Longbeach products prominently in their shops received "Longbeach Dollars" that could be spent at special auction nights. Such rewards must be sufficient to stimulate loyalty, as demonstrated by a failed 1994 Rothmans program in which the rewards were too low.

Display units and assistance with point-of-sale marketing

An R.J. Reynolds report stated that "[Australian] retailers immediately realised they were sitting on a "gold mine" at retail when print and [out-of-home] went away," and that as a result, "the cost of the real estate went through the roof for Australia," forcing manufacturers to pay millions of Australian dollars for entire massive sets of retail display hardware to ensure "an advantaged position (the only piece of 2000 cm advertising)." Presumably this high cost was not just for the physical manufacture and installation of the units, but also a large fee for the right to use the only small piece of advertising space still available. PML has also acknowledged the importance of providing "innovative and customised instore [display] hardware" and other merchandising supports, shouldering the financial burden placed on retailers as a result of regulatory changes to the display of cigarettes. As an R.J. Reynolds report noted "[providing customised hardware] could play a major role in the future on who is perceived as the must-have companies. Retailers will be looking for new and creative ways to sell and merchandise cigarettes."
Personal relationships between company representatives and retailers certainly appear to be valued in tobacco culture, as evidenced by awards to staff who excel in developing these “invaluable” relationships,37 and concern from an R.J.Reynolds executive that after the TAP Act was introduced “field people [were] totally confused about what [was] important... morale was five times worse than their expectations...[and] massive cultural/past behaviour change issues...existed.”24 “Field people” assist retailers with everything from planograms or POGs - diagrams that show how and where to display products in order to increase customer purchases – to Local Area Marketing – designing a stock selection and display tailor-made for the demographics of the area in which the business is situated.38

Comments from a WD&HO Wills marketing manager in 1998 illustrate just how serious the industry is about the minutiae of legal cigarette displays in regulation sales units:

“We’ve been pushing retailers to put their cigarettes on the back wall, and we’ve had some initiatives where we’ve block-stocked our products. Instead of using a gravity-fed overhead dispenser, we’ve used a cascade tray to build up a big brand image. That orients the product towards the consumer rather than having it facing the floor so you see more of the packet. The company has also changed the packet colours on one of its major brands – Horizon – so that it’s a uniform blue. The aim of the exercise is instant recognition: along with Benson&Hedges, that’s given us full gold and blue blocks on display and that helps our brands stand out.”39

The maintenance of “point-of-sale dominance,” the strengthening of brand symbols and colours for instant recognition (via pack design) and the extension of these colours and the brands’ identities into the point-of-sale are continuing, carefully negotiated strategies,31 which also offer benefits to the retailer through highly organised and professional support for their merchandising.

Alliance building

The manufacturers promote their corporate image direct to retailers, and work to recruit retailers as political allies.31,40,41 Retail trade publications contain both editorials consistent
with tobacco rhetoric and photographs of the cigarette manufacturing/marketing companies' constant presence at retail trade fairs, seminars, and award nights.

All three manufacturing/marketing companies take out frequent corporate advertising in retail trade journals, promising the retailer better service and support and urging them to work with company representatives to "maximize your profits." \(^{38,42}\) In the retail magazines examined for this study, each company was promoting a slightly different corporate identity. BATA, the serious industry leader, warned about the penalties for selling "chop chop" (illegal loose tobacco), promised to provide important information on its corporate website, and occasionally promoted the benefits of its brands with dense pages of text and graphs (Figure 17). PML's corporate image was more approachable, promising good service and support, brands that young people like to smoke, and bigger profits (Figure 18). ITA, the new entrant, promised high-tech "younique" service unencumbered by age and tradition, pledging "at Imperial, we take a more individual approach to your business. We listen, we learn and we deliver" (Figure 19).

**Figure 17:** BATA corporate advertisement warning of the dangers of selling chop chop

**Figure 18:** PM corporate advertisement emphasising the financial benefits of the tobacco category compared to the confectionery, juice, milk and bread categories: the text above reads "are you making the most of it?" and below reads "to find out how to get the most from the tobacco category, speak to your Philip Morris account manager today."
Figure 19: Imperial corporate advertising: the positioning statement is "YOUNIQUE" and the text underneath the image reads "At Imperial, we take a more individual approach to your business. We listen, we learn and we deliver."
Brand advertising in trade publications

Another important channel of communication between the industry and retailers is brand advertising in retail trade publications. A total of 44 such advertisements were examined as described in Chapter Three. A summary of the results is presented in Table Ten.

TABLE TEN: CONTENT OF BRAND ADVERTISING IN RETAIL TRADE PUBLICATIONS

<table>
<thead>
<tr>
<th>Number of unique advertisements Jan 2001 to June 2003 containing the listed content</th>
<th>Premium</th>
<th>Mainstream</th>
<th>Value</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL Number of unique advertisements</td>
<td>23</td>
<td>11</td>
<td>10</td>
<td>44</td>
</tr>
<tr>
<td>Number of brand families represented</td>
<td>8</td>
<td>2</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>New things announced</td>
<td>8</td>
<td>5</td>
<td>4</td>
<td>17</td>
</tr>
<tr>
<td>Cigarette pack appears</td>
<td>19</td>
<td>11</td>
<td>9</td>
<td>39</td>
</tr>
<tr>
<td>Imagery other than pack or trademark used</td>
<td>20</td>
<td>9</td>
<td>6</td>
<td>35</td>
</tr>
<tr>
<td>Text discusses business aspects of the brand</td>
<td>6</td>
<td>9</td>
<td>8</td>
<td>23</td>
</tr>
<tr>
<td>Positioning statement used</td>
<td>15</td>
<td>6</td>
<td>7</td>
<td>28</td>
</tr>
</tbody>
</table>

The advertisements examined did not solely or even primarily perform an information function. Only a minority announced something new, such as changes in pack size, pack style or tar banding.

Two kinds of imagery appeared in the advertisements: packs or trademarks, and other imagery. Retailers selling cigarette products need to be able to identify cigarette packs: this enables them to make orders and provide customers with the products they request. It is thus unsurprising that advertising in retail trade publications frequently contained pictures of packs. However it is not necessary for a retailer to be able to associate, for example, Alpine with deserted beaches or Winfield with boxing matches. Despite this, particularly in premium and mainstream advertising, imagery in addition to the trademark or pack was also used to build these associations, attempting to create brand images in the retailers' minds. As seen in the advertisements reproduced in the previous two chapters, the imagery used included 1950s-style photographs; carefree beach scenes; abstract
compositions based on electrical wires and computer chips; scenes of fishing, playing billiards or doing woodwork; nightclub-style lights; calm lakes; and tablecloths holding soothing cups of coffee.

The function of text in the advertisements also differed between the brand categories premium, mainstream and supervalue. Positioning statements for high-profit premium brands in particular were relatively abstract and focused on communicating brand identities, much as one would expect in an advertisement to consumers. Positioning statements included "Dunhill 20s: when you're ready", "Fresh is Alpine", "Live&Wired" and "Connect&Commit" for Benson&Hedges, "The spirit of Marlboro in a light cigarette", and "Test It" and "Passion for Power" for West. Positioning statements for supervalue brands more frequently emphasised the value proposition for the brands, such as "Australia's best value" for Holiday and "Still number one for value" for Longbeach. Mainstream ads emphasised their popularity in the market as well as their "ordinary-Aussie" positioning, for example, Winfield's "Reel in an Aussie favourite." Text which explicitly talked about the business aspects of a brand – such as sales levels or profit margins – appeared in about 80% of advertisements for supervalue and mainstream brands, but only 25% of advertisements for premium brands, consistent with the core brand element of the premium category, quality, and the strong brand-as-symbol elements common to premium advertising.

e-Distribution: placing tobacco companies at the heart of retail business

A 1994 PML document observed "the importance of the distribution system is growing as more marketing restrictions are placed on the industry." Accordingly, both BATA and PML have made globally unique efforts in the area of distribution in recent years. Both now have associated companies – e-Orders, established by PML in January 2001 and Quatro Four launched by BATA in December 2001 – which operate as major integrated distribution hubs for small retailers in convenience, newsagents and petrol stations. These hubs distribute not just tobacco products, but a range of fast-moving consumer goods including beverages, confectionery, ice-cream, phone cards, convenience foods, dairy and automotive parts. e-Orders has 650 retail customers, Quatro Four signed more than 2000 in its first nine months of operation, including both national chains and small independent retailers.
Although at present retailers can use both systems simultaneously for different products, it has been said in the trade press that "ultimately, there is only really room for one ordering system. The two electronic ordering specialists - e-Orders and Quatro - are scrambling for critical mass, for retailers and suppliers." e-Ordering has become a new frontier for competition and control between the manufacturers. The systems are currently advertised and editorialised about extensively in the trade literature, promising increased efficiency, tailoring, reduced supply chain costs to the retailer, integration with point-of-sale technology to enable automated stock management, and upcoming financial management services such as electronic invoicing and automatic account payment. Quatro Four offers incentives such as a years' free internet access for joining up, and promises convenience store owners that they will "help you compete with the big guys", that is, the large grocery supermarket chains that have a stranglehold on the Australian market, by providing budget priced point-of-sale computer systems and other technology.

It is important to note that these two initiatives are not centralised systems rolled out to Australia from overseas – they are local start-up enterprises, and may in fact be implemented in overseas markets by PMI and BAT if they continue to be successful. Both systems contain tobacco advertising, position tobacco at the heart of a retailers' business along with other more benign product categories, and according to their spokespeople "will enable sales reps to go back to being professional representatives for their companies, helping retailers to build their sales, rather than spending inordinate amounts of time as order takers." It may be that an increase in e-ordering will lead to redundancy in the sales force, but given the evidence presented here of the importance of intensive assistance given to retailers in purchasing and presenting their cigarette stock, this seems unlikely.

DISCUSSION

The point-of-sale, always an important marketing environment for the Australian cigarette industry, has been transformed in the last five decades. Originally retail marketing was a mere support mechanism for above-the-line activities. When above-the-line was banned, the retail environment became the front line for brand-building, absorbing massive resources and being seen as the primary site for sustaining relationships with the consumer. When retail was restricted by some states, the industry conceded only
incrementally and under duress. The fact that the law is sometimes broken in retail marketing suggests that retail promotions, however modest, are still highly prized in Australia's dark market.

Given that the industry explicitly defines retail as the new frontier in a dark market, effective tobacco control regulation should include stringent control of the retail environment. Given the industry’s creativity and risk-taking, the only way of preventing promotion of products at retail would be to require all products to be placed under the counter. Consumers could make purchases from product listings, and the law could define and standardise the format of these listings, allowing only product names and differentiating information such as pack size. The industry expects tobacco products to be forced under the counter, and their expectations should be fulfilled.

Another measure of the importance of the retail environment is the energy and resources expended by the industry on their relationships with retailers, demonstrated through trade promotional expenditure, in-store marketing assistance, alliance building, brand advertising in the trade press and the new electronic retail distribution system. Regulating some of these aspects of the retail environment will be much more difficult than regulating the display of products.

Elements potentially more amenable to change are branded advertising in the retail press and trade promotional expenditure. Given that trade promotional expenditure impacts on price and thus can reduce the effectiveness of taxation strategies, the possibility of regulating it on economic as well as marketing grounds could be considered. Branded product advertising to retailers could potentially be banned in the current review of the TAP Act. These advertisements are clearly serving brand positioning functions, presenting brand-as-symbol elements and using brand positioning statements that would be appropriate for consumer advertising. In premium cigarette advertising in particular, attempts to communicate brand identity are more prominent than information about the business aspects of selling cigarettes. It is hard to imagine why the tobacco industry would continue investing in such brand building activity if they did not think it was likely to increase their profits. Retailers’ brand recognition requirements could be fulfilled by simple text lists and thumbnail package illustrations, a format already used for presenting information on brand share in some publications. Retailing information, such as market
share and profit margins, could readily be provided without being associated with brand positioning statements and imagery.

The tradition of the industry paying for in-store display hardware provides an opportunity. This precedent means that regulatory changes in retail displays could in future be defined as the industry's financial responsibility, reducing the burden on individual retailers. In contrast, the industry's traditional role in supporting and informing retailers as to the display of cigarettes should ideally be absorbed by health authorities, moving the emphasis from maximising sales to compliance with regulation. If the rise of e-distribution does undermine the role of the sales representative it may provide a window of opportunity to effect this change.

The major threats to tobacco control in the retail sector appear to be the strong political alliances between tobacco and retail, profits that tobacco products offer to retailers, and the new developments in e-distribution. These will all be difficult to disrupt. It may be necessary for health groups to begin alliance-building activities with the retail sector, as has been done to an extent with the sporting sector in the advent of local sponsorship bans. It may also be necessary, as occurred in sport and the farming sector, to commit some public money to support the movement of small businesses away from dependence on tobacco and into other categories. Given the tobacco tax windfall that the federal government collects and does not hypothecate, this seems a reasonable means by which to acknowledge the genuine financial dependence of some small businesses on tobacco.

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SECTION FOUR: CONCLUSIONS
CHAPTER TWELVE CONCLUSIONS

In previous chapters I have presented an analysis of tobacco industry documents and other sources, detailing some of the overt and covert communication strategies of Australian and transnational tobacco corporations. I have discussed the role and work of the Tobacco Institute of Australia (TIA) and Mongoven Biscoe & Duchin (MBD), making a case that the work of the TIA was the direct responsibility of the Australian manufacturers, and providing details of the industry's transnational efforts to undermine the FCTC via MBD, with potential impacts for many countries. I have contrasted the industry's public and private communications on two key issues, smoking and disease and young peoples' smoking, demonstrating that the manufacturers have cooperated sometimes and disagreed other times, but that the industry has rarely provided the Australian public with the information it had available internally. I have provided an analysis of the Australian ready-made cigarette brand market, using David Aaker's typography of brand identity, brand positioning, brand image and brand equity and describing three brand categories that serve different types of smokers: premium, mainstream and supervalue. I have also presented detail of some of the below-the-line marketing strategies used by tobacco companies in Australia, including their strategies to minimise the acknowledged impact of marketing regulations in the retail environment and beyond.

The strategies I have described are inconsistent with public health objectives, and in keeping with the findings in Chapter Two, they share a common motivation: to maintain the profit of the three transnational tobacco corporations operating in Australia by influencing their business environment and increasing, or at least maintaining, expenditure on cigarettes by new and existing users.

There are a number of ways in which these strategies could be countered, including through marketing, through lobbying and other strategies used by corporate affairs departments, through research, and through regulation of marketing and of the profit-making nature of the industry.
MARKETING

When planning marketing campaigns to discourage tobacco use, there is much to be learned from the importance of BTL marketing in selling cigarettes and many other products. Tobacco companies know, for example, that price and display are important, spending a considerable portion of their marketing budgets on trade promotional expenditure to support price reductions and impressive product displays at the very front of many outlets. In contrast, nicotine replacement therapies are not price-supported in Australian tobacco control regulation, or through Australia's Pharmaceutical Benefits Scheme, and are less prominent in shops, presenting barriers to access. Tobacco companies have sought to establish a presence for their product in places where young trendsetters have fun, but there is not a similar presence for counter-messages. Tobacco companies provide plenty of novelty to smokers via the pack, but Australian health warnings have been unchanged since 1995. The revised regulations that will govern warnings to smokers from 2006 specify that new picture warnings all be introduced over a short period; thus the novelty will be short-lived, and the potential impact on smokers lessened. The general trend towards integrated marketing reported in Chapter Ten suggests that allocation of public money to BTL strategies could provide good-value opportunities to communicate cessation messages to smokers and prevention messages to non-smokers.

While any new approaches to promotion would have to be tested in the market, existing tobacco industry strategies suggest many directions for consideration. The importance of novelty, price and events suggests that, for example, for a short period from World No Tobacco Day annually smokers could be offered cheap nicotine replacement therapy and appealing, social environments in which to get support from other smokers trying to quit. BTL event marketing is a natural fit to promote and support the bans on smoking in clubs and pubs as they are introduced. The central importance of the brand in industry communication, whether to sell cigarettes or to sell ideas like prevention of youth smoking, suggests that those planning tobacco control programs should approach both Quit and youth smoking prevention as brands, with identities as multifaceted as the industry's brand identities. As noted in Chapter Ten, evaluations of the Truth brand have suggested that this is both possible and efficacious. Further, given that smokers clearly respond very differently to the three cigarette brand categories operating in Australia, thought could be given to developing separate quit brands that resonate with the core of each of the three distinct cigarette brand categories (quality, good-humoured-Aussie-fair-go or value-and-escape). The industry is already placing printed
information inside packs and wraps around packs: this technology could be utilised to provide frequently changing, informative and eye-catching quit information that is different for different cigarette brand categories. When smokers go to websites or telephone help-lines for information about cessation, they could be asked to nominate their brand, and the information, approach and style of the information provided could be tailored accordingly, and delivered through innovative media such as e-mails, text messaging and chat rooms where appropriate.

USING CORPORATE AFFAIRS STRATEGIES AGAINST THE TOBACCO INDUSTRY

Section Two demonstrated the way in which the tobacco industry's corporate affairs departments and consultants have changed their strategies over time. The aggression of the 1970s and 1980s, personified by John Dollisson, gave way to a subtler, more conciliatory, less public face of the industry in the 1990s and 2000s. The detail of MBD's work demonstrates some of the thinking behind the industry's corporate affairs strategies, much of which could be adopted for use by tobacco control. MBD's schema of opponents - radicals, idealists, realists, and opportunists - could be used to analyse the industry and its allies. It is interesting that the managers of tobacco corporations in recent years have chosen to position themselves as realists, that is, pragmatic incrementalists willing to work within the system, given that in MBD's schema, realists are the group least vulnerable to being excluded, shamed or trivialised in policy negotiations. Realists are also the group that MBD considered most useful: the industry may well be modelling the kind of conduct they would like to see from their opponents. MBD's schema could be a useful way of thinking about the roles played by people working within tobacco control, ensuring that there are not only realists (who are vital but readily coopted) but also idealists and radicals pushing the tobacco control agenda.

Chapter Two and Section Two discussed campaigns that both overtly and covertly promoted the interests of tobacco TNCs through a range of strategies. Overt campaigns to convince the public included the industry's aggressive media stance on smoking and disease in the 1980s, and the more subtle youth smoking prevention campaigns mounted by "Australian Tobacco Companies" in the 1990s. Third party strategy - speaking through an apparently independent person or organization - was illustrated by examples such as Glenn Smith conducting and criticising research on children and advertising, veterans groups organised by MBD to speak out for the tobacco industry, or Kevin Donnelly protesting the efficacy and independence of I've
Got the Power. Private attempts to influence decision makers included the Report to Federal and State Politicians: Philip Morris Addressing Underage Smoking in Australia, the negotiations around the attribution of funding for I’ve Got the Power, and the campaigns through regulatory bodies to attempt to silence health promotion messages in the 1980s.

Many of these strategies, in particular overt communication through the media and private lobbying of politicians, are already used against the tobacco industry in Australia. Third party strategy has also been used to an extent, most noticeably of late in battles over smoking bans in NSW when groups such as unions and entertainers have been strong voices in the debate. Countering the industry, in particular gaining further regulatory control of cigarette marketing, may be facilitated by continued and strengthened use of such strategies, particularly private lobbying which, to adopt a lesson from BTL marketing, has the potential to cut through the cluttered political communication environment in a unique way and thus have greater impact on individuals. Groups such as sympathetic advertising agencies, promoters or businesses unwittingly caught up in events promoting tobacco products, and the young adults who are the targets of much BTL marketing may be the most appropriate voices to speak out against these industry practices.

RESEARCH

Chapters Two, Five and Seven in particular discussed the importance of research for corporate communication. Chapter Two suggested that industry funding and control of research, the industry’s public and private communication of research results, and the potential for this research to contribute to the corporate brands of tobacco companies, are key issues. Section Two showed that as tobacco corporations moved into the 1990s, they began to adopt a new approach to corporate affairs. This included changes in the way that research was used. The days described in Chapters Four and Five, when industry used research funds as ammunition in an overt war against the arguments of the public health community, appear to be over. But research is no less central, particularly with the rise of the Corporate Social Responsibility movement as noted in Chapter Seven.

The fact that researchers receiving corporate funding typically support corporate perspectives and deny corporate influence suggests that researchers should evaluate their own industry ties, including to the tobacco industry, remembering that the issues are far subtler than deliberate
bias or corruption. Universities that have not yet done so should consider strong controls on tobacco industry funding, and meta-analyses should separate privately and publicly-funded research for tobacco and other industries. Although tobacco industry research in Australia is now less likely to be run out of universities than it was in the past, complex, long term corporate affairs programs such as I've Got the Power or BATA’s ongoing series of annual Social Reports have strong research and evaluation elements. According to BATA’s website, for example, “key features” of their social report process include “independently facilitated dialogue with stakeholders, creating responses to stakeholders' issues, introducing measures to deliver identified actions, [and] publishing results regularly in a social report.” These are all research-related activities, all increasingly central to the BATA corporate brand, largely performed by external consultants, and highly likely to be useful in BATA’s approaches to the public and decision makers. This suggests a continued need for critique of the processes and uses of tobacco industry funded research as well as the research funded by other corporations. The material presented in Chapter Two suggests that the strong ties between some researchers in tobacco control and the pharmaceutical industry, in particular, should be more closely scrutinised.

Research is also necessary to counter corporate communication. BTL marketing and the activities of contemporary corporate affairs departments can easily go unnoticed, especially by the white collar workers in tobacco control who are rarely their intended target. Smokers are the recipients of BTL initiatives such as pack changes, the passing on of trade promotional expenditure as lower prices, or the display of cigarettes in shops that non-smokers are unlikely to notice. Using smokers as informants in marketing research that aims to monitor such trends would be resource-intensive but could provide important information. Corporate affairs departments are much harder to monitor, although the work of the Centre for Media and Democracy in the USA, as used in Chapter Eight, could provide a model: it gains information through good networks in politics and the NGO sector. These links exist informally in Australia, particularly via the Internet and email-based Tobacco Control Network, but do not always have an organizational focal point. Such research would inform continuing revision of regulation, prosecutions, and advocacy.
Chapter Two raised the issue of current constraints on national governments and the need for public health to be regulated transnationally. The Framework Convention on Tobacco Control is undoubtedly a movement towards the transnationalization of tobacco control and a symbolically important moment, particularly for poor countries with little tobacco regulation or global power. Australia was an important player in the FCTC and an early signatory, but the FCTC will have a very limited impact in Australia, particularly in the area of communication where our national and state legislation is already further advanced. Changes in Australia’s domestic tobacco policies are thus likely to be fought locally rather than being determined by the FCTC. As observed in Chapter Two, one of the limitations on regulatory responses to any transnational corporation is that corporation’s involvement in, or even control of, local regulatory processes. This is made more difficult when the resources of a transnational corporation are pitted against a relatively smaller local regulator. There is little that can be done to stop this influence. Attempting to regulate the activities of corporate affairs departments would set dangerous censorship precedents, except when misleading information is provided to consumers. It seems necessary to counter corporate affairs departments, and their attempts to influence the regulatory process, with public health advocacy and below-the-line public health marketing programs as discussed above, and focus regulatory efforts on limiting marketing and removing the profit incentive, as discussed below.

Regulating marketing

There is some anecdotal evidence in Australia of the transnational tobacco industry slowing down the regulatory process – several initiatives have been progressing haltingly in recent years, including picture pack warnings, pub and club smoking bans, and the review of the Tobacco Advertising Prohibition Act, and this is frequently attributed to industry intervention. However the TAP Act also provides a positive precedent, and certainly appears to have changed the marketing practices of tobacco corporations enormously. As seen in Chapter Ten, the industry complained internally that the TAP Act seriously decreased its ability to communicate efficiently with customers. As seen in Chapters Ten and Eleven, it also forced corporations to consolidate their efforts within a narrow field of known brands, and pushed them ahead of the international trend to become leading experts in integrated marketing. Regulation has had an effect in Australia, but not a complete effect, as Chapters Ten and Eleven demonstrated.
Marketing, as shown in Section Three, is highly dynamic, which makes it difficult to regulate.

The TAP Act 1992 defines “tobacco advertisement” as follows:

“(1) Subject to this section, for the purposes of this Act, a tobacco advertisement is any writing, still or moving picture, sign, symbol or other visual image, or any audible message, or any combination of 2 or more of those things, that gives publicity to, or otherwise promotes or is intended to promote:
(a) smoking; or
(b) the purchase or use of a tobacco product or a range of tobacco products; or
(c) the whole or a part of a trade mark that is registered under the Trade Marks Act 1955 in respect of goods that are or include tobacco products; or
(d) the whole or a part of a design that is registered under the Designs Act 2003 in relation to products that are or include tobacco products; or
(e) the whole or a part of the name of a person:
(i) who is a manufacturer of tobacco products; and
(ii) whose name appears on, or on the packaging of, some or all of those products; or
(f) any other words (for example the whole or a part of a brand name) or designs, or combination of words and designs, that are closely associated with a tobacco product or a range of tobacco products (whether also closely associated with other kinds of products)."
products, as this marketing becomes increasingly indirect, the intention to promote becomes increasingly difficult to prove.

The reality is that most BTL activities do more than “promote” a tobacco product. Many of the activities directed at retailers, which are important components of manufacturers’ attempts to increase consumption, such as Trade Promotional Expenditure, provision of support by corporate sales staff, alliance building, and the new e-ordering systems, are also services that retailers welcome and that have a relatively indirect relationship to the consumer. Similarly, the design of packs is complex. Packs have a pragmatic purpose – to contain and identify the cigarettes within. They are also a vital component of current BTL cigarette marketing. Although there are elements of packaging such as inserts and outserts that seem readily amenable to regulation, TRIPS would make it extremely difficult for any government to introduce generic packs, although it has been suggested that this could be achieved by making tobacco a controlled substance. Even if the intellectual property barrier was overcome, it seems highly likely that the industry would find new ways to sustain existing brand images and brand categories in the market, via mechanisms such as cigarette rod design, the generic packs themselves, and/or word-of-mouth.

One of the insights from this work is that marketing is far more than the direct promotion of a named brand. The “exclusive right to sell” arrangements at music festivals and dance parties is a good illustration of this. The successful prosecution of Philip Morris over the Wavesnet events discussed in Chapter Ten showed that, if forewarned, it is possible to prove that event marketing is marketing, but the ephemeral nature of these BTL activities make them difficult to address. Timing has always been an important issue in the regulation of communication: even above-the-line marketing campaigns are short, and regulatory processes are frequently not responsive enough to allow for corrective action during a campaign. Events used to market cigarettes are not promoted as such, meaning that it can be difficult to gain prior warning. Good documentation, made by the parties authorised to document by the relevant legislation (usually Departments of Health) is also required to prosecute. The post-Wavesnet generation of event marketing is subtler, frequently limited to the sale of a single brand of cigarettes by existing bar staff, making all of these challenges greater.

Changes in the Act could address communication channels, definitions, and indirect means of brand building. Specific marketing channels could be prohibited, including pack inserts and
outserts (although this technology could be fruitfully used for health warnings or quit communications and there may be more benefit in maintaining it), retail print advertising, trading in “exclusive rights to sell”, and temporary or mobile selling units (for example, the sales display units used at dance parties and other music events). The definition of “advertising” could be expanded to take in not just writing, pictures, signs, visual images and audible messages, but also environments and events. It may also be necessary to go beyond direct “promotion” of brands to prohibit writing, pictures, signs, visual images, audible messages, environments or events that are associated with a cigarette brand and are consistent with that brand’s identity, whether or not they carry the brand’s identifiers.

Regulating profits

As noted in Chapter Two, the objectives of corporations and the objectives of public health are ideologically different. Tobacco corporations are clearly and appropriately motivated by profit, and their marketing and corporate affairs personnel are charged with driving their market share up in a challenging regulatory environment. As publicly-held companies, that is their responsibility. This creates the major challenge for tobacco control. It is unrealistic to expect that the industry, if allowed to continue selling cigarettes, will stop engaging in activities like those described in the preceding chapters, or that corporate managers will not invent new responses to any new regulation. As discussed in Chapter Two, corporations of all kinds will drive their share price any way they can, within and often beyond the constraints of the law, until prevented. Thus the fundamental ideological challenge for tobacco control is to attempt to reframe the commercial relationship between tobacco corporations and consumers as socially unacceptable, even immoral, to provide the impetus for that prevention.

In Australia new regulatory models that go well beyond the FCTC are being proposed, specifically designed to address the tobacco industry’s incentive to make profit. Under one variation of such a model, a Tobacco Products Agency would be responsible for the regulation of all aspects of both tobacco products and other nicotine delivery systems. The role of tobacco TNCs would be reduced to one of manufacturing only, tendering competitively for the provision of products to the Agency. The Agency would regulate the content and packaging of tobacco products through its tenders, would shape the market towards less harmful products, and would control distribution to retailers and thus break the link between manufacturers and retailers. Manufacturers would be prohibited from communicating with consumers, and the
Agency would sell cigarettes under its own name, removing the manufacturers' names from the consumer market. The authors have suggested that consumer marketing in all forms could then be skewed towards reduced harm products, for example, by allowing less harmful products to be sold in attractive packaging and limiting more harmful products to generic packaging. They have also proposed that the removal of consumer marketing will mean that manufacturing will be opened up to competition, as small operators may enter the market. One benefit of this may be that if the transnationals are less prominent in the market they may have less influence on regulators. There would no doubt be extensive, well organised transnational opposition to these changes using all possible channels including the WTO, as is common when a single market attempts to set an international precedent that is against the interests of TNCs. However such a system would undoubtedly provide better controls of the tobacco market than are currently available, particularly over product composition, although it is difficult to judge how well it would control BTL marketing and the TNC's corporate affairs departments.

The manufacturers would still stand to gain from increased cigarette consumption. Although they have been less obviously cooperative since the 1990s, the removal of brands from the market, if it could be achieved under TRIPS, may in fact increase their incentive to organise and cooperate on corporate affairs issues. In a recent focus group I conducted for another project, a participant reported that a friend, who worked as a sales representative for a tobacco TNC, had been paying retailers in the local area to remove from their shops health-warning posters that had been placed there by health authorities. I believe that this information was trustworthy, and it is an example of tobacco TNCs' preparedness to pay individually to improve their operating environment in ways that benefit both them and their competition. This is consistent with the recent efforts of PM reported in Chapter Seven to gain consensus from all the major TNCs on an international marketing code, and the industry's history of collaboration on other important issues as seen in Section Two. The manufacturers understand that they are interdependent. The proposed model would not change this interdependence, or the TNCs' willingness to act in ways that benefit the entire market.

The authors of the regulatory model described above have proposed that it may force PML and BATA, the two manufacturers in Australia, to bow to smaller competitors. However this seems unlikely. With their established production facilities, made ever-leaner over the last two decades, PML and BATA's tenders would be likely to be most competitive. As shown in Chapter Two, markets for many products in many countries have been rapidly concentrating...
through mergers and acquisitions of late and this pattern is unlikely to change even in the face of severe regulation. As long as the TNCs were making a profit from manufacture they would continue, and their corporate affairs departments would remain in operation, with support from expert head-offices in their parent companies, attempting to effect regulatory change that is counter to public health objectives.

It also seems likely that the manufacturers would continue to engage in BTL marketing of smoking and to a diminished extent, brands. As observed in Chapter Nine, the corporations appear to perceive the equity of their competitors' brands to be important in sustaining the equity of their own brands. Thus even BTL marketing – for example paying people to smoke at events – could become a cooperative affair. The manufacturers could produce smoking accessories without brand identification but resonating with the old brand categories (quality, good-humoured-Aussie-fair-go or value-and-escape) as a source of profit, for example. They could retain their presence in the retail industry through attendance at functions, provision of general advice on retail marketing, and e-ordering of other goods to encourage retailers to present tobacco-related products to consumers in the most favourable way possible under the new laws. As suggested previously, presuming a reasonable correspondence between old and new products, a relatively straightforward word-of-mouth retailer information program may be enough to transport old brand identities into a new market even in the context of generic packs, just as they have been made transportable across previous regulatory changes. To break the link to current brands it may in fact be necessary to remove cigarettes entirely from their current retail locations, with appropriate compensation for retailers, and sell them only in government-controlled outlets run by staff who do not stand to profit personally from increased sales.\(^6\)

**Legitimising regulation**

Regulatory change has much potential, but its impetus may need to come from civil society. Before governments will regulate they must first accept that there are situations in which it is legitimate to curb the activities of the private sector. For governments to accept that this is the case, it may be necessary for citizens to make it clear that curbing the activities of the private sector, where this is in the interest of individuals, taxpayers and society in general, is not only a legitimate role for government, but also one that weighs heavily in determining our vote. If research like the work reported in the previous chapters can provide an understanding of the tobacco industry's conduct, and that information can be communicated to the public in
innovative ways that borrow from both the marketing practices and the corporate affairs departments of tobacco companies, then the ideological change needed to drive regulatory change may be possible. If public health objectives are to be met, regulators, both national and transnational, need to impose on the profit-making ambitions of corporations to protect population health and counter the endless innovation of the marketing professionals working to sustain cigarette consumption. If strategies limiting marketing are combined with others such as smoking bans in social environments and product modification, it may be possible to further reduce the preventable burden of disease from tobacco smoking in Australia and elsewhere.

REFERENCES

CHAPTER THIRTEEN A REVIEW OF TOBACCO DOCUMENT RESEARCH REPORTING, WITH REFLECTIONS ON THE PRACTICE OF TOBACCO DOCUMENT RESEARCH

INTRODUCTION

This is a reflective chapter that reviews existing TDR, including my own, considers ways in which TDR has developed during the last decade, and proposes directions TDR could take in future.

This history of the documents was sketched in Chapter One, but I will review it in more detail here. Document release has been characterised by Mike Cummings and Richard Pollay as occurring in two waves. First, whistleblowers and US Congress made 1384 documents from the Brown and Williamson (B&W) Tobacco Corporation and its parent company, British American Tobacco (BAT) Company available in 1994. The second wave arose from the Minnesota attorney general’s office and Blue Cross/Blue Shield’s lawsuit against US tobacco corporations. The majority of the second wave, excluding documents from the UK-based BAT companies, was made available on the Internet as a result of the Master Settlement Agreement between the major tobacco companies and a consortium of state attorney’s general in 1998: tens of millions of pages are being released until 2010.

A small number of papers have considered tobacco document research (TDR) method, that is, the specific procedures used to gather and analyse tobacco documents. They explain that tobacco documents can be found by time-consuming searching of either online or physical archives: there are two archives, one in Minnesota, USA, and one in Guildford, UK. Industry sites online enable wildcard and "all fields" searching; the physical archives contain unique collections and provide indexing lists, but access is resource intensive; industry indexing is inconsistent. Searching the Minnesota Depository versus industry websites produces comparable results. The British American Tobacco (BAT) depository in Guildford, UK, has been particularly inaccessible. Electronic tobacco control archiving projects are building
more stable, accessible and comprehensively indexed alternatives to industry
sources.\textsuperscript{2,4,5,7,8,12,13}

Few papers have discussed TDR methodology, that is, why research is done a certain way, or
the principles that determine how research procedures are used and interpreted. The most
common observation in these papers is that publicly available documents are not
representative of the total document population.\textsuperscript{3,4} This results from the documents’
provenance, that is, whistle-blowing and legal discovery, and also because of limitations
imposed by the tobacco industry on what is made available. Tobacco lawyers have destroyed
documents, a subset of discovered documents is deemed privileged by the companies and
withheld from researchers, and, importantly, no business keeps every document it produces.
Other writers have observed that the relationship between industry intentions and actions is
often unclear, and that TDR papers rarely discuss analysis, sometimes analyse documents out
of context, and tend not to use the interpretive methods from other disciplines.\textsuperscript{2,3}

\section*{Purpose of this chapter}

This chapter examines how the two waves of documents described above have been used in
the peer-reviewed health literature indexed in Medline. As described in Chapter Three, a total
of 173 papers in this literature that had used tobacco documents were identified. It was beyond
the scope of this work to include research based on other industry sources, or in other
literatures such as legal journals, books or journalism. I sought to answer several questions.
First: what reporting traditions have been established in TDR published in the peer-reviewed
health literature? Then: What can the reporting traditions of TDR tell us about the nature of
TDR? How do they relate to other research reporting traditions? What directions do they
suggest for the future?

\section*{RESULTS}

To recap on the methods presented in Chapter Three, the 173 papers that I analysed were
divided into two sets, which I will henceforth refer to as A-Papers and B-Papers. A-Papers were
research papers that were primarily concerned with finding, analysing and reporting on tobacco
industry documents. There were 110 A-Papers. B-Papers were papers that cited a small
number of documents but were not primarily reports of tobacco document research. There
were 63 B-Papers. B-Papers included, for example, analytic reviews of the literature and
reports of survey research: what B-Papers had in common was that they cited a small number of tobacco documents (generally one or two). In most cases the distinction between A-Papers and B-Papers was straightforward. Marginal decisions were not based purely on the percentage of references that were tobacco documents: I also took into account whether documents were acknowledged as a source and how they were used.

**TDR publishing patterns**

The second wave of tobacco documents stimulated TDR publication – only 12 papers were published up to 1998 – including of B-Papers, which with one exception commenced in 1999. Publication of A-Papers peaked in 2002 and 2003; publication of B-Papers increased from 2000 (Figure 20).

![Figure 20: Number of TDR papers published over time](image)

Although 39 journals published TDR, a small subset dominated the field. Journals were divided into groups (Table Eleven): those that had published eight papers or more were kept distinct in the analysis; other journals were divided into those that had published only one paper (1-paper journals) and those that had published between two and four papers (2–4 paper journals).

The first wave was dominated by JAMA, which published seven of the 12 papers to 1998 but little thereafter. After the second wave, Tobacco Control (TC) dominated (from 2000).
publishing about half of all A-Papers, followed by the American Journal of Public Health (AJPH - from 2001). Both published around five A-Papers a year, except for 2002 and 2003, when TC published 36 A-Papers in all, approximately one third of all A-Papers, many of them in supplements. Almost a third of all B-Papers were published in 2004. Up until 2003, most B-Papers were published in TC (more than half) and journals that had published only one TDR paper (a quarter). In 2004 this changed. The number of TDR papers in TC decreased. Journals that had published TDR only once were responsible for a quarter of the B-Papers, as before. The rest were in published in journals that had previously rarely published B-Papers, including Nicotine and Tobacco Research (NTR) and The Lancet (30% of all B-Papers in 2004), journals that had published two to four papers (20%) and American Journal of Public Health (AJPH - 15%).

**Authors of TDR**

A total of 222 authors were represented; 161 (almost three quarters) had worked on only one paper; only 17 had published five papers or more. Four groups of papers defined by authorship were delineated (Table Eleven). Generally speaking, A-Papers were more likely to have highly published authors working on them, and B-Papers more likely to have less-published authors working on them. The rush of A-Papers in 2002 and 2003 was strongly dominated by senior authors (those in the 7–11 and 20+ groups), mostly based at large centres funded specifically to do TDR. Otherwise each author group published about the same number of A-Papers from 2000 to 2004. More than half of all B-Papers were by the 1–2 group, half of these in 2004 alone; however all author groups published B-Papers (Table Eleven).

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1 To recap on the methods described in Chapter Three: I divided authors into four groups, those that had published only one or two TDR papers (the 1–2 group); those that had published between three and six papers (the 3–6 group); those that had published between seven and eleven papers (the 7–11 group) and a small group of authors who had published over 20 papers (the 20+ group).
TABLE ELEVEN: PUBLICATION PATTERNS AND AUTHORSHIP

<table>
<thead>
<tr>
<th>Total number of papers</th>
<th>Number of A-Papers</th>
<th>Percent of all A-Papers</th>
<th>Number of B-Papers</th>
<th>Percent of all B-Papers</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL</td>
<td>173</td>
<td>110</td>
<td>100</td>
<td>63</td>
</tr>
</tbody>
</table>

NUMBER OF TDR PAPERS PUBLISHED BY JOURNAL

<table>
<thead>
<tr>
<th></th>
<th>Number of papers</th>
<th>Percent of all papers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 paper (27 journals)</td>
<td>27</td>
<td>12</td>
</tr>
<tr>
<td>2 to 4 papers</td>
<td>19</td>
<td>9</td>
</tr>
<tr>
<td>NTR and The Lancet</td>
<td>16</td>
<td>7</td>
</tr>
<tr>
<td>(second wave only)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>JAMA (predominantly first wave)</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>American Journal of Public Health (exclusively second wave)</td>
<td>25</td>
<td>20</td>
</tr>
<tr>
<td>Tobacco Control (almost exclusively second wave)</td>
<td>77</td>
<td>53</td>
</tr>
</tbody>
</table>

NUMBER OF TDR PAPERS PUBLISHED BY MOST SENIOR AUTHOR

<table>
<thead>
<tr>
<th>Number of papers</th>
<th>Percent of all papers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 or 2</td>
<td>53</td>
</tr>
<tr>
<td>3 to 6</td>
<td>27</td>
</tr>
<tr>
<td>7 to 11</td>
<td>43</td>
</tr>
<tr>
<td>More than 20</td>
<td>50</td>
</tr>
</tbody>
</table>

Purpose of TDR

Of the 173 papers, 40 had no stated purpose, slightly more of those being B-Papers. The simplest and most common purpose stated in the remaining papers was "to describe what was in the documents". Five other more complex purposes occurred in fewer papers:

1. to understand;
2. to argue, criticise or assist with litigation;
3. to answer stated questions;
4. to analyse contributing factors or determine causation; and
5. to compare the contents of document and non-document sources.

Data sources, searching, analysis and limitations reported in TDR

The non-mutually exclusive sources and limitations reported are listed in Table Twelve; searching and analysis practices reported are listed in Table 13.

Patterns in reporting

Reporting was inconsistent: most of the items in Tables Twelve and 13 occurred in small numbers of papers, combined differently by different authors. One third of all A-Papers reported using multiple data sources, one third noted some limitations, about 80% provided some search information, and half some analysis information, defined extremely liberally (Table 13).

Patterns of reporting in A-Papers

There was an apparent evolution in A-Papers over time. These changes were complex, occurring more or less in some author groups or journals or even in some individuals. Speaking generally, across time A-papers became more likely to:

1. state a purpose;
2. state a purpose more complex than description;
3. combine tobacco documents with other sources;
4. describe searching; and
5. describe analysis.
## TABLE TWELVE: SOURCES AND LIMITATIONS REPORTED IN ORDER OF FREQUENCY OF USE

<table>
<thead>
<tr>
<th>TOBACCO DOCUMENT SOURCES REPORTED</th>
<th>LIMITATIONS REPORTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>MSA tobacco industry Web sites</td>
<td>Returned document set not complete</td>
</tr>
<tr>
<td>Tobacco Documents Online</td>
<td>Searching inefficient, returned document set voluminous</td>
</tr>
<tr>
<td>Legacy/UCSF</td>
<td>Searching problems</td>
</tr>
<tr>
<td>Other non-tobacco industry websites</td>
<td>Depositories hard to access</td>
</tr>
<tr>
<td>Tobacco documents non MSA or BAT/BW</td>
<td>Nature of document evidence creates limitations</td>
</tr>
<tr>
<td>Minnesota Depository</td>
<td>Documents returned by search redundant</td>
</tr>
<tr>
<td>BAT Guildford Depository</td>
<td>Not clear from documents whether plans were implemented</td>
</tr>
<tr>
<td>Early BAT and B&amp;W doc set</td>
<td>Documents stop in 1990s</td>
</tr>
<tr>
<td><strong>NON TOBACCO DOCUMENT SOURCES</strong></td>
<td>Selection bias in total document population</td>
</tr>
<tr>
<td>General or specialist press, internet</td>
<td>No triangulation of documents with other sources</td>
</tr>
<tr>
<td>Legislation, lawsuits, hearings</td>
<td></td>
</tr>
<tr>
<td>Published literature</td>
<td></td>
</tr>
<tr>
<td>Interviews and surveys</td>
<td></td>
</tr>
<tr>
<td>Government or state information</td>
<td></td>
</tr>
<tr>
<td>Resources from individuals or organizations</td>
<td></td>
</tr>
<tr>
<td>Quantitative data</td>
<td></td>
</tr>
<tr>
<td>Observation</td>
<td></td>
</tr>
<tr>
<td>Agencies working for the tobacco industry</td>
<td></td>
</tr>
<tr>
<td>Patents</td>
<td></td>
</tr>
<tr>
<td>Filings from stock exchanges, financial records</td>
<td></td>
</tr>
<tr>
<td>Advertising campaigns</td>
<td></td>
</tr>
<tr>
<td>SEARCHING PRACTICES</td>
<td>ANALYSIS PRACTICES</td>
</tr>
<tr>
<td>---------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Search strings or terms listed</td>
<td>Culling: authors stated that they kept relevant documents</td>
</tr>
<tr>
<td>Searching in specified fields: topic or keyword</td>
<td>Abstracting or summarising</td>
</tr>
<tr>
<td>Number of documents returned listed</td>
<td>Culling: specific selection criteria for culling described</td>
</tr>
<tr>
<td>Describes the use of snowballing</td>
<td>Documents ordered chronologically</td>
</tr>
<tr>
<td>Searching in specified fields: people or names</td>
<td>Documents coded or indexed</td>
</tr>
<tr>
<td>Dates of search listed</td>
<td>Specific analysis methods used (e.g. case study methods, content analysis)</td>
</tr>
<tr>
<td>Searching in specified fields: organizations committees or companies</td>
<td>More than one coder used</td>
</tr>
<tr>
<td>Notes that search terms were combined</td>
<td>Themes identified</td>
</tr>
<tr>
<td>Searching in specified fields: dates</td>
<td>Documents coded inductively</td>
</tr>
<tr>
<td>Search strategy explained sequentially</td>
<td>Authors stated that used a narrative approach</td>
</tr>
<tr>
<td>Explains why a certain search strategy was used</td>
<td>Authors stated that analysis was descriptive</td>
</tr>
<tr>
<td>Searching in specified fields: source file or location</td>
<td>Statistical tests used</td>
</tr>
<tr>
<td>Searching in specified fields: bates numbers</td>
<td>Software used to manage data</td>
</tr>
<tr>
<td>Notes source imbalance (more documents from some companies than others)</td>
<td>Quantitative techniques used</td>
</tr>
<tr>
<td>Date range of documents returned listed</td>
<td>Coders were trained</td>
</tr>
<tr>
<td>States that search reached saturation or was exhaustive</td>
<td>Authors stated that analysis was qualitative</td>
</tr>
<tr>
<td>Searching in specified fields: title</td>
<td>Authors stated that analysis used mixed methods</td>
</tr>
<tr>
<td>Describes search as systematic</td>
<td>Culling: authors described considering quality of document information in analysis</td>
</tr>
<tr>
<td>Searching in specified fields: projects or accounts</td>
<td>Authors stated that their approach was analytical</td>
</tr>
<tr>
<td>Describes techniques used as normative</td>
<td>Authors described interpreting the documents against other material</td>
</tr>
<tr>
<td>Physical searching in depositories</td>
<td>Culling: authors described emphasising documents for which a context was available</td>
</tr>
</tbody>
</table>
Until 2001 most A-Papers stated either no purpose or a descriptive purpose. From 2002 about half of A-Papers had a more complex purpose, most often from the 7–11 paper authors, and least often from 1–2 paper authors. A-Papers containing no source information were published until 2003, particularly in 1-paper journals, but became proportionally less prominent each year from 1998. There was a sharp decrease in 2001 and 2002, corresponding with a sharp proportional increase – to about 60% – in papers that reported using tobacco document sources only. In 2003 only, the majority of papers (just over half) reported combining document and non-document sources, again primarily from authors of 7–11 papers. Although this suggests evolution over time for these authors, this was true for only some individuals in the group. Papers with more complex purposes combined sources more often, as did papers in NTR and The Lancet, and in AJPH.

Although methods sections ranged from one or two sentences up to many detailed paragraphs, the proportion of A-Papers containing some search or analysis information increased over time, more consistently for searching than for analysis (Figure 21). Papers in 1-paper journals and by 1–2 paper authors were least likely to contain search or analysis information. Papers by 7–11 and 20+ paper authors were most likely to contain search information; analysis information was most commonly provided in papers by 3–6 paper authors and 7–11 paper authors, and in AJPH, 2–4 paper journals and TC. AJPH and TC published the widest range of analysis information. Papers that stated a complex purpose and that combined sources were both more likely to provide searching or analysis information.

Most innovations in reports of searching were introduced between 2000 and 2002, after which authors recombined established elements. In 2000 the first papers from both physical

<table>
<thead>
<tr>
<th>SEARCHING PRACTICES CONTINUED</th>
<th>ANALYSIS PRACTICES CONTINUED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Searching in specified fields: RFP codes</td>
<td>Culling: authors described emphasising repeated rather than single instances</td>
</tr>
<tr>
<td>Searching in specified fields: document type</td>
<td>Authors stated that analysis was historical</td>
</tr>
<tr>
<td>Uses optical character recognition</td>
<td></td>
</tr>
<tr>
<td>Searching in specified fields: meetings or events</td>
<td></td>
</tr>
<tr>
<td>Notes use of keyword variation (such as searching for misspellings as well as correct spellings)</td>
<td></td>
</tr>
</tbody>
</table>
searching in depositories and online document searching were published. Most published papers have come from online searching, and this imbalance is reflected in the search information observed. Authors began to describe their searching in 2000: most often keywords and number of documents returned; less often, search dates, search strategy, imbalance in sources, and searching by people or groups. In 2001, authors began describing their searching as "systematic", and reported combining search terms and searching in more fields including title, source file or location, dates and document type. In 2002, authors began using Malone and Balbach's 2000 paper on methods to state that they had used normative techniques, and to report using Optical Character Recognition (a facility available at Tobacco Documents Online, an electronic archiving project within tobacco control). Authors also began reporting searching for documents in context, including searching for Bates numbers consecutive to found documents, searching for all documents arising from particular events, projects or accounts, or searching by Request for Production (RFP) codes (for further explanation of RFP codes see).
FIGURE 21: SEARCHING AND ANALYSIS INFORMATION BY YEAR

The first wave has been excluded from Figure 21 because it was a different kind of data set, less relevant for current TDR researchers particularly because of its small size.
Reporting of analysis, always less prevalent than reporting of searching, was slower to start and is still evolving. The two least specific and earliest analysis practices reported—summarising documents and culling according to "relevance"—appeared most often and across years. From 2000, authors talked about analysis using three kinds of terms that resonated with, but were generally not formally linked to, three different research traditions. These ways of writing sometimes coexisted in one paper.

The earliest terminology used to discuss TDR analysis borrowed from interpretive/constructivist research. Researchers described identifying themes, used

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* Although several authors cited particular research techniques in their papers—particularly case study techniques or content analysis methods—these were rarely referenced to literature and the papers were rarely structured in a way that allowed the reader to understand and verify the authors' claim to that method.

* The following sections will frequently contrast interpretive/constructivist and positivist/post-positivist approaches to research. This is a key distinction in most research disciplines. The most important difference between these two approaches is their conceptualization of the researcher, which has a fundamental impact on the way in which the quality of research is assessed. Positivist/post-positivist traditions are most commonly observed in reductionist disciplines such as basic science, epidemiology, quantitative economics or sociology, and demography. In positivist/post-positivist traditions, the researcher is expected to be objective. The researcher must strive not to influence the research participants or the research outcome. This objectivity is achieved through the application of standardised techniques (for example randomisation, standardised questionnaires, blinding, controlling in statistical analyses). Ideally multiple researchers will apply the same techniques, allowing their agreement to be measured and statements about the repeatability of the research process to be made. Interpretive/constructivist approaches are more commonly seen in qualitative research, although not all research that analyses text is interpretive/constructivist. In interpretive/constructivist approaches, research is taken to be inherently subjective, and it is assumed that it is impossible for the researcher not to influence the research outcome; the researcher participates actively in the research through their questioning of sources, their interpretive decisions and their unique frame of reference. Interpretive or constructivist research is more circumspect about what research can achieve, and does not make claims, like positivist/post-positivist research, to results that are broadly generalisable, or to a measurable degree of certainty (the concept of measurable certainty is illustrated by confidence intervals in epidemiology). Although results are more likely to be expressed tentatively or with qualification, the acknowledgement of subjectivity does not mean that "anything goes." Repeatability of results becomes a less meaningful measure of the quality of interpretive/constructivist research; quality is demonstrated through the results "ringing true" for those familiar with the topic, by their usefulness, and, importantly, through the researcher's transparency about the research process, which allows a reader to decide whether they agree with the researcher's interpretations. These two approaches each have strengths and weaknesses. Because of the assumptions at their core, they are not readily compatible within a single study, although the same researcher may adopt one or the other for different projects.
adjectives such as narrative, descriptive and qualitative in reference to their analysis, and wrote that they coded inductively – that they created codes from reading the documents rather predetermining codes. A second way of writing about analysis borrowed from positivist/post-positivist research: first, formal selection criteria for culling and multiple researchers for coding; later pre-defined exhaustive coding systems in which researchers were trained, and in a small number of papers, quantitative analyses. A third group of terms resonated with historical research. The earliest and most common, from 2000, was “chronological”.

By 2003–4 a few TDR authors used language suggesting the quality of document evidence could not be taken at face value, a core issue in historiography. These authors described emphasising documents that were consistent with other documents or for which a meaningful context was available (such as a file), and making judgements about the trustworthiness of documents – for example evaluating documents against other sources as opposed to simply treating different sources as stores of additional facts.

This late shift towards questioning the documents as evidence was also reflected in the limitations noted by TDR authors. Until 2003 limitations noted used positivist language, mostly describing technical barriers such as searching problems and selection bias. In 2003 and 2004 a few authors raised limitations intrinsic to the documents as evidence, and TDR as research. They argued the past could not be evaluated by the standards of the present, framed their work as an interpretation, suggested that the documents could not always tell researchers why things were done, and interrogated the quality of the information in the documents (for example, including only industry research that met certain criteria in their document analysis). These new limitations seemed fundamentally different. Limitations noted before 2003 were about repeatability and representativeness, that is, about whether problems with searching, or problems with the original sample, might mean that the documents examined by the researcher were not representative of industry documents generally. The new limitations raised after 2003 suggested that, regardless of how representative the documents examined were of the larger body of documents,

Although traditionally central to history, chronology has more recently become a problematic historical concept. Many historians in recent decades have rejected sweeping chronologies and attempts to prove cause, instead moving toward interpreting the lives of tightly defined groups of people in specific places and times. This is connected to a contentious shift away from positivism/post-positivism – often referred to as empiricism in history – and towards a more constructivist/interpretivist approach.
research based on them would be limited in ways that were intrinsic to all work based on documentary evidence from the past.

Patterns of reporting in B-Papers

About three quarters of all B-Papers fell into one of two types, both written mostly by inexperienced authors: reviews or essays that provided no source information; or research papers that provided detailed source information about non-document data, most commonly from surveys or interviews (almost 30% of B-Papers), while referencing one or two documents for which no source information was provided. A smaller group of B-Papers used a very wide variety of sources including documents within their results.

The provenance of the documents was discussed in very few B-Papers in most years. In about three quarters of B-Papers documents were used as evidence to support a contention made by the authors – that tobacco companies market to teenagers, for example, in an introduction or discussion section. In more than half, quotes were reproduced, demonstrating the perceived power of using the voice of the industry. In about a quarter of B-Papers, documents were used as though they constituted the same kind of evidence as published literature, for example, authors would make a statement and support it with both an industry document and a piece of peer reviewed research, or would cite a single industry document instead of the published, peer-reviewed TDR that existed on that subject.

Two contrasting practices, suggesting different views of the documents as evidence, rarely occurred in the same B-Paper. In slightly more than half of B-Papers, authors used a small number of documents to make an expansive statement about “the industry”, using a single quote to speak to all industry conduct. In contrast, in just under half of B-Papers, authors used the documents to provide a specific example or instance, located in place and time. The latter practice became more common over time and was most common in papers published in NTR, The Lancet and AJPH and by more experienced authors.
DISCUSSION

This section will address the second set of questions raised in the introduction. What can the reporting traditions of TDR tell us about the nature of TDR? How do they relate to other research reporting traditions? What directions do they suggest for the future?

Insights into the nature of TDR from its reporting traditions: my interpretations of the field

The TDR examined for this study was diverse: no clear reporting or methodological standard had been established for it. Most A-Papers were produced by experienced authors. However they often worked with inexperienced authors, and across the study period inexperienced authors independently published A-Papers, and more often, B-Papers. This inexperience, the newness and diversity of TDR, and the lack of any reference to a disciplinary or methodological context in most published TDR suggest that a clearer consideration of why we do things the way we do could be beneficial for the field.

Tobacco documents were being used in two relatively distinct sorts of publications, which I have labelled A-Papers and B-Papers. A kind of "descriptive mainstream" persisted in A-Papers, although it slowly decreased. Papers in this descriptive mainstream form stated no purpose, or stated that their purpose was simply to describe the content of the documents, nominated no sources or only documents as sources, and had a typical structure: an introduction setting out an issue from the peer reviewed literature and promising to describe the contents of industry documents; methods; a long report of events, ordered chronologically and/or by issue, sometimes with extensive quotation; then a short conclusion calling for regulation, advocacy and/or litigation. Within this descriptive mainstream there were variations, such as early papers with no introduction or methods. A reasonable example of the descriptive mainstream (although it has an atypical introductory section) is the document research reported in the first TDR paper that I published, on which Chapter Eight is based, which is in Appendix Three D (the original paper has been somewhat altered for the thesis).

In both A-Papers and B-Papers, treatment of industry documents seemed to fall along a continuum, which I have labelled the continuum from researcher as conduit to researcher as constructor. At the conduit end, documents were used as straightforward nuggets of
general truth, and the researcher was positioned as a passive conduit (B-Papers with one quote purporting to prove an expansive contention; A-Papers with no source, searching, analysis, or researcher information, telling a story without qualification, such as that in Appendix Three D). At the constructor end of the continuum documents were treated as problematic, complex sources of specific information that needed a context to be understood, and readers were made aware of the way in which the researcher had constructed their account of the past (B-Papers giving precise, qualified examples located in place, person and time; A-Papers with complex purposes, multiple sources, details of searching and analysis and the limitations inherent in the documents.) Most papers fell somewhere between these two and many contained elements of both, but in a general sense there was progression away from the conduit end of the spectrum and towards the constructor end. The papers in Section Three, along with their methods information in Chapter Three and the relevant appendices, are the closest I have come to positioning myself as constructor: Chapter Nine, for example, sets out to understand the brand structure of the Australian market, a purpose more complex than simply describing the content of the documents, and uses multiple sources. Chapter Three contains detailed information about searching and analysis.

It may be that the descriptive mainstream, and the positioning of researcher as conduit, which were connected and became less prominent over time, arose at least partly from the "forbidden fruit" nature of the documents on their immediate release. The early emphasis in TDR on the "secretness" of the documents and the sometimes extremely dramatic language used in the early days seemed to telegraph to readers the inherent importance and trustworthiness of TDR as a project. There was an urgency and sense of importance in this work that perhaps implicitly defined TDR as being a different kind of project from other research, with different reporting standards.

While reporting of analysis increased it did so to a lesser extent than reporting about searching, suggesting that TDR authors perceive analysis to be less salient than searching. This practice has a subtext: that once a researcher finds the documents, and justifies the way in which they were found, making sense of them is a straightforward task.

\footnote{It should also be noted that many things that I counted as reporting on analysis would not necessarily be considered to be analysis in other disciplines: I believe my definitions were extremely generous.}
To me this subtext resonates with the lack of any external methodological reference point in most TDR papers - when authors provided background references they were generally the seminal methods papers from within TDR itself. In contrast it is common for other text-based research in health journals to be located within a methodological and theoretical context, usually explained in the introduction.

What I observed in TDR was a vocabulary for describing analysis that borrowed from three traditions: positivist textual research, interpretive textual research, and history. What TDR papers rarely contained was evidence that authors were working explicitly or purposefully within the traditions from which these words came. This is unsurprising, as many of the authors of TDR, including some of the most careful and some of the most widely published, have come from research disciplines that do not traditionally work with text, or think about methodology. Many of us, for example, have come from clinical medicine or public health disciplines such as statistics or epidemiology, all fields that take the positivist/post-positivist approach for granted.

In the next section I will discuss possibilities for analysis in TDR. Reflecting the three kinds of vocabulary I observed in current TDR reporting, I will discuss possibilities for analysis under three headings: interpretive textual research, positivist textual research and history. I must emphasise that I am not suggesting that a single TDR paper or author should try to adopt all of these traditions at once (indeed to try to do so would be absurd and unhelpful). I am also not suggesting that current TDR is not useful because it has not adopted these traditions more fully. Rather I am exploring some differing directions from which TDR authors could choose to enrich their current practice.

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As discussed in the introduction, methodology, that is, why research is done a certain way, or the principles that determine how research procedures are used and interpreted, is a different consideration from method, that is, in this case, the specific procedures used to gather and analyse tobacco documents. I am not criticising the referencing of these seminal methods papers – clearly this is good practice if they were used – rather I am highlighting the distinction between explaining what was done, and explaining why it was done that way.

There are both positivist and interpretive historians, but their discipline is uniquely relevant because historians constantly work in archives and discuss the challenges of writing about the past, whereas other text-based research traditions tend to work in the present or the very recent past. For this reason I have discussed history separately.
Reporting traditions in TDR in relation to other research reporting traditions

Possible applications of interpretive/constructivist approaches to tobacco industry documents

As observed above, the earliest words used by TDR authors to describe analysis were those from interpretive research. Many researchers working interpretively use an informal hermeneutic thematic analysis, much like the approach taken in this chapter. Other more formal interpretive approaches that could be adopted in TDR include frame, discourse, case study or ethnographic analysis.

Frame analysis is used in media studies, linguistics and policy studies. Although highly contested, in essence frame analysis seeks to elucidate the conflicting, invisible frames through which a single event or issue is presented in texts. Different frames highlight or suppress aspects of the same situation, frequently for ideological reasons, and serve functions such as laying blame, suggesting solutions, or calling to arms. Frame theory is compatible with TDR in that it goes beyond the literal meaning of texts, it highlights conflict, it has a history of use in the study of social movements, and is highly compatible with the advocacy culture of tobacco control. A frame analysis using documents may, for example, focus on a single event (such as a court case or a regulatory decision) or a single issue at a narrowly defined point in time. It could collect related documents and perhaps other sources that contain statements from the industry, their opponents and decision makers. It could then analyse and contrast the frames through which the event or issue was represented by the different players, emphasising the functions that these frames played.

Discourse analysis (DA) is a much-misused term and another highly conflicted and fractured field. DA is used in many disciplines including psychology, linguistics, organizational studies and politics. Most DA approaches focus on language structures and emphasise the importance of language in context, proscribing abstracting or decontextualization of documents. The detailed examination of language required in DA would limit researchers to examining a much smaller body of text than is common in a TDR
paper. In my experience the most useful aspect of DA is its refusal to presume that language simply reflects reality. DA recognises that language creates our social world, and so would provide a formal framework within which to ask "how did the industry construct this issue?" If, for example, I had found the set of memos between Kevin Donnelly and Australian education departments that negotiated access for I've Got the Power to Australian schools, DA could have been used to analyse them not just for what was said, but how it was said. What was made to seem important or unimportant? Did the writers emphasise certain themes by recycling them throughout the memos? Were certain actions presented as obligations or as options? What genres did the memos use (what social processes did the language in them perform, such as storytelling, arguing, instructing, negotiating). Were they written so as to include or exclude others' points of view? Which voices were expressed: did anyone speak for tobacco control, school children, parents? How were they talked about? The answers to these questions would then, in some DA traditions, be related back to the larger social and political context.

The defining characteristic of a case study approach is the focus on a highly specific and "bounded" case, such as a decision or a program, narrowly situated in place and time. The approach seems readily applicable to TDR. Thus for example, a case study approach would not attempt to study "what the tobacco industry documents say about economics," but may for example study the recent infamous Philip Morris-commissioned report to the Czech government showing the economic benefits of smoking due to the early mortality of smokers, defining the study period tightly -- perhaps six months before and six months after the report. There are, as usual, variations in the field, but broadly, a case study approach would provide TDR researchers with a structure within which to analyse, move beyond description to interpret systematically, and, again, to emphasise context: this is a particular feature, with the context of the case generally being presented in detail first. This approach also emphasises diversity of sources, thus in the above example, documents would be combined with other sources such as archives, news reports,

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The methods sections of a small number of TDR papers that I examined said that they used case study methods. Unfortunately those papers that stated that they used case study methods rarely provided the kind of detail or external references that would allow other TDR researchers to copy their research methods. Note that there may be studies that used methods very similar to case study methods but did not say this in their methods sections.
interviews and observation where possible.26,28,29 The major limitation on using tobacco
documents in a case study project is that the approach is best suited to studying relatively
recent or current events in which the researcher can directly immerse themselves.29

Ethnography26,30-32 also uses diverse data sources, but with different questions in mind: the
primary interest of ethnographers is culture. I can imagine two ways in which cultural
questions could be asked in TDR. One would be the study of a particular tobacco
company, or a particular group within that company, as a culture, something that is
common in organizational research but has not been done as yet in TDR. Anecdotally for
example, the documents from the BAT group have been observed to contain more
information about document destruction than the documents from other companies. An
ethnographic approach would try to understand the culture of the BAT group, or perhaps
the section of the BAT group responsible for document destruction, to better understand
this phenomenon.3d The second kind of cultural question would be about specific groups
in the population. Some TDR papers have considered particular population subgroups,
such as countries, immigrant groups and the gay/lesbian/bisexual/transgender community,
but these have mostly asked: “what is in the documents about this group?” In contrast, an
ethnographic approach would ask a question such as “what does smoking mean in lesbian
culture in Sydney?” (or any other culture in any other place). The contents of the
documents, and other archives, would be combined with participant observation with the
group and in-depth interviews with group members to understand the cultural meanings of
smoking for this group. The great advantages of this approach are the depth of
understanding that it encourages, and the inclusion of the accounts of members of the
group. TDR focused on specific population groups has tended to be “about” that group,
without necessarily including the perspectives and interpretations of the members of that
group. This also raises a major limitation for both ethnographic and case study approaches
to TDR: lack of meaningful access to the tobacco industry. Normally, for example, an
ethnographic study of a particular office of a tobacco corporation would spend large
amounts of time observing in this office: the improbability of this means that ethnographic
approaches would have to be modified to be used in TDR focused on corporate culture.

Possible applications of positivist/post-positivist approaches to tobacco

3d Thanks to Claire Hooker and Jeff Collin for ideas that led to these observations.
industry documents

TDR is sited primarily in the public health literature, which, as discussed, is dominated by post-positivism via disciplines such as epidemiology, economics and demography, and thus is less likely to be familiar with interpretive traditions. It is thus unsurprising that some of the most scrupulous TDR researchers have demonstrated research quality via post-positivist standards, although this has been done mostly in relation to searching rather than analysis. An excellent example of a carefully reported post-positivist analysis of text (albeit mostly of sources other than tobacco documents) is Bryan-Jones and Bero’s 2003 paper on the US Occupational Safety and Health Administration’s indoor air quality rule.33

Few TDR papers have reported using used content analysis, the primary prescriptive, positivist method used to analyse written, spoken and visual texts in many disciplines.34,35 A good example of reporting of content analysis is Balbach, Gasior and Barbeau’s 2003 study of R.J.Reynolds’ targeting of African Americans, although again the content analysis methods in this paper are applied to magazine advertising rather than the documents themselves.36 Content analysis involves counting concrete textual elements and statistically testing the patterns in which they occur. Researchers who work in a positivist/post-positivist paradigm in which statistical demonstration of repeatability is important may find content analysis the most useful formal structure for their analysis.

Possible lessons from historical research for the analysis of tobacco industry documents

TDR rarely acknowledges its historical character, and has been criticised as ahistorical.37 However discussions in historiography, including those about sources, interpretation, and methods, are particularly relevant to TDR because they address the challenges of researching the past.

Many of the conflicts in history parallel the abovementioned conflict between positivism and interpretivism. For decades in historiography there has been tension between visions of history as an objective, empirical science or as a relativist art form. Many voices in this debate in fact take a compromise position,38-43 and these compromises often characterise histories as competing readings of past events, arguing that there is “one past but many histories”.41,44 Because the past is massive, surviving artefacts and accounts are
fragmented, and we always view the past through the eyes of a very different present, we can never comprehend the past exactly or totally. These difficulties are shared but rarely acknowledged by TDR. Sources, the only window to the past, are a key concern in history; many historiographers advocate amassing diverse sources – public and private documents, oral accounts, objects and images – to counterbalance their intrinsic flaws. While most A-Papers I examined amassed document sources, the descriptive mainstream did not use diverse sources (the paper in Appendix Three D, for example, used all the tobacco documents available relating to MBD but no other sources).

Most historiographers agree that the facts presented in history must be accurate – a concern which I believe is mirrored in the most careful TDR authors’ painstaking documentation of their searching strategies. However many historiographers argue that the accuracy of the facts, while fundamentally important, is a dry and uninteresting baseline requirement for doing history – what matters is what researchers do with the facts – their interpretation. The facts versus interpretation distinction in history does not seem to have informed TDR writing. As discussed, authors who provide detailed information about searching often provide no information about analysis, suggesting that they thought that the task of interpretation needed no explanation, or even perhaps even that they did not believe that they were interpreting, believing instead that they were simply “telling.” This latter explanation may have been especially true in the papers that positioned the researcher as conduit, and in papers that took the descriptive mainstream form, in which results sections frequently presented, with certainty, lists of events that happened. Thus TDR could perhaps learn from recent historical thinking by being more transparent about the interpretive phase of research using the documents.

However since the 1960s historians have disagreed over interpretation, and the related notion that historians’ own identities and ideologies affect their interpretations. Traditional history has been criticised for serving only powerful groups, and new histories have been written of previously excluded groups – for example women, indigenous people or workers – to energise political action. These marginal history projects, although retrospective, have features in common with ethnographic or case study projects, in particular a detailed engagement with the lives of particular groups of people. TDR shares with marginal histories its criticism of powerful groups, and tobacco documents could potentially be used to create marginal histories. For example, an
historical study of tobacco workers in a particular area or factory might use tobacco industry documents, other archives, oral histories gathered from workers themselves, photographs, objects from the work environment and other sources to create an interpretive account of life as a tobacco worker in that place. TDR could also learn from these interpretive historians' conscious positioning of themselves in the research – as, for example, feminists or unionists or people of colour. TDR is often implicitly activist. Taking an overt interpretive frame, whether using historical methods or one of the interpretive methods described above, would encourage researcher to be more explicit about this position.

There are also some questions of method raised in history that could inform TDR. Many historians, particularly those more empirically inclined, would contend that primary sources, those produced as part of everyday life, are a different kind of source than secondary documents, those produced as reports on something. For these historians, a report on a meeting that stated that the CEO had advised an employee to do something, for example (a secondary source), would be considered less trustworthy than a memo from the CEO instructing that employee (a primary source). There was little sense from published TDR of whether these sources are being distinguished by TDR authors.

There is also some discussion in history of how a project as a whole is approached. The source-oriented approach to research has been contrasted with the question-oriented approach, a contrast that resonates with the differences in purpose – description versus, for example, answering questions – that I observed between some TDR papers. Tosh suggests the source-oriented approach, that is, starting from a bounded set of primary sources like the tobacco documents and asking what is in them, suits a newly discovered source but is messy and inefficient, observations that resonate with the limitations noted by many TDR researchers. He also contends that the question-oriented approach, that is, formulating questions by reading secondary sources then looking for answers in whatever primary sources can be found, provides order and guidance but is limiting if the researcher does not allow their questions to be changed by the sources.

Finally, historians, like discourse analysts, case study researchers, ethnographers and of late some experienced TDR researchers, emphasise the need to present sources in their context and avoid over-simplification. This includes the need to consider institutional
records as part of organizational processes and in the series in which they were originally produced, \(^{42}\) consistent with some experienced TDR authors' recent prioritisation of contextualised documents.

The major limitation on TDR researchers learning from historians is that historical papers generally do not have methods sections as public health papers do, although they do have extensive footnotes. Thus if TDR researchers are to learn to use historical ways of thinking, they will probably need to consult historiography texts.

**FUTURE DIRECTIONS FOR TDR REPORTING**

Asserting a standard for TDR reporting will be difficult, not least because of the inexperience of many authors and publishers. However certain reporting practices seemed to become more common in later years and to "clump" together — more complex purposes, more diverse sources, more detail of searching and analysis — suggesting that greater exposure to the complexity of the documents is evolving TDR reporting for some researchers towards the position that I have labelled researcher as constructor. I believe this trend from more senior TDR authors is worth continuing because it makes TDR more transparent. Figure 22 proposes a draft process for planning and evaluating TDR to move reporting further towards researcher as constructor. There will certainly be traditions that I have neglected in the model. I hope it will be improved by re-adjustments from other TDR authors after publication.

Also consistent with trends, and I believe beneficial for transparency, would be a standardised structure for TDR methods sections: sources (see examples in Table Twelve), searching (see examples in Table 13) and analysis (presently poorly defined in the literature: see discussion in previous section). As illustrated in Figure 22, sources, searching and analytic methods interact with the purpose defined for the research, which interacts with the overall analytic approach taken. In my view this would ideally be *either* interpretive/constructivist *or* positivist/post-positivist rather than using a combination, as this would provide a clearer sense for readers of the nature of the research. There may be other analytic approaches that would also be useful. For example, there has been limited discussion in the public health literature of the legal significance of the documents: an
author with legal training may choose to analyse the documents via that tradition, which would contain its own assumptions.

Word limits are always an issue in qualitative research, and providing more detailed methods sections will inevitably reduce the size of results sections. However there are few other disciplines in which it would be considered appropriate to have a one-sentence methods section for the sake of a few more paragraphs of results. I would expect the model in Figure 22 to produce more compact results through facilitating deeper examination of more specific cases or questions and better synthesised analysis, rather than the "laundry list" of events across long time frames common in the descriptive mainstream form of TDR (remembering that many authors already publish work in a form more complex than the descriptive mainstream). This difference is illustrated by some of the developments in my own work – the contrast, for example, between Chapters Seven and Nine.

Audit trails – detailed records kept by researchers – are a common way of dealing with word limits in qualitative research which may also assist. The material presented in my Appendices, which as noted in Chapter Three was made available on the Internet linked to some of my papers when they were originally published, was inspired by the concept of the audit trail.

Finally, while I believe TDR has much to learn from the rich analytic traditions described above, it may well be that TDR researchers have developed their own ways of doing analysis which are specifically suited to working with the documents as a data source. The problem is that at the moment they are not being described. Chapter Three of this thesis represents my best efforts to be clear about how I made sense of the documents: over time TDR authors may evolve their own analytic traditions, although these will inevitably make interpretive/constructivist or positivist/post-positivist assumptions, consciously or otherwise.
FIGURE 22: FLOWCHART FOR DESIGNING AND EVALUATING TDR

Are documents a major data source for the paper (A-Paper), or are a small number of documents to be used in a paper that mostly reports on other kinds of data (B-Paper)?

A-PAPER

INTRODUCTION: Is the research purpose defined? Can the research purpose be made more complex and specific than simply describing? (e.g. answering specific questions, examining well-defined cases)

INTRODUCTION: Is the researcher and/or intended journal and/or purpose most compatible with interpretive or post-positivist approaches?

INTERPRETIVE

POST-POSITIVIST

INTRODUCTION: Which analytic approach is most appropriate to the research purpose? What literature will be referenced to provide the reader with a context for the analytic approach?

Frame/Discourse/Case study/Ethnography/ Other

Historical

Content Other

METHODS: Which sources are most appropriate to this purpose and approach? If the approach suits a broad use of sources (e.g. case study, historical, ethnographic) have many diverse sources been gathered and justified? If the approach suits a more bounded use of sources (e.g. discourse analysis) has this been clearly defined and justified? (See Table Two for ideas about sources)

METHODS: Which searching strategies are most appropriate for this combination of purpose, sources and analytic approach? Are searching strategies well documented? (See Table Three for searching ideas)

METHODS: Are the documents analysed in context? Is analysis method described? Can the reader understand how the author drew their conclusions?

Have limitations been outlined? Are they consistent with the overall research approach? Do they reflect the inherent weakness of the tobacco documents as data?

B-PAPER

Is there a piece of published TDR that addresses the issue the authors want to illustrate?

NO

YES

Reference existing TDR instead of document/s

Are documents to be used to demonstrate a specific bounded event, or make a general assertion?

SPECIFIC

GENERAL

Avoid this use of documents. Seek other published work, indicate need for more research, and/or pursue this TDR project separately

Use the document/s to illustrate particular events, being careful not to exceed the limits of what the document/s demonstrate. Be as transparent as possible about how you have selected this example and interpreted its meaning. Provide detailed context, particularly the source of the document/s, and relevant people, places and events
REFERENCES


