

GLOBAL HEALTH & THE TOBACCO INDUSTRY

Implications for Global Health Governance

Dr Benjamin Hawkins

London School of Hygiene & Tropical Medicine

ben.hawkins@lshtm.ac.uk

Session Overview



- Tobacco epidemics and tobacco control
- Transnational Tobacco Corporations (TTCs)
- Trade liberalisation, the WTO and TTCs
- TTCs and health legislation
- Smuggling
- Framework Convention on Tobacco Control (FCTC)
- Questions for global health governance...

Health Impact of Tobacco

- Estimated that tobacco will kill half of all current smokers- 650 million people
- Death toll in C20th estimated at 100 million; on current trends will reach 1 billion in C21st
- Burden of tobacco-related mortality & morbidity will move increasingly to the developing world
- Prevalence of tobacco use tends to increase with the entry of TTCs into national markets

Patterns of Tobacco Consumption

- A descriptive model of the cigarette epidemic in developed countries- Lopez et al (1994)
- 4 phases of tobacco pandemic:
 - ▣ See graph of smoking prevalence/ mortality rates
- Gov. intervention can curtail the progression of pandemic
- Lag between fall in rates of smoking and mortality rates
 - ▣ Can 'muddy the waters' of policy debates on tobacco control

Tobacco Control

- Rationale:
 - Harmful (to users & others) and highly addictive
 - Imposes significant costs on health systems
 - Economic rationale
- Mainly demand-side measures:
 - Warning labels
 - Advertising bans
 - Taxation (and combat of smuggling)
 - Smoking bans in public places
 - Graphic images and/or plain packaging (e.g. Australia)

Warning Labels



SPL



Trans-National Tobacco Corporations

- TTCs drive sales and increase consumption
 - ▣ Marketing activity
 - ▣ Lobbying to undermine tobacco control
 - ▣ E.g. Eastern Europe
- Global TTCs can influence & undermine nat govs
- Expansion in 'emerging markets'- Health time bomb
 - ▣ Vast political & economic power

Size & Globalisation of TTCs

Table 1: Size, Transnationality and Internationalization of TTCs (2005)
(Millions of dollars and number of employees)

Company	Altria Group	Japan Tobacco	British American Tobacco	Altadis
G500 ranking	62	365	390	429
UNCTAD ranking By foreign assets	48		74	
UNCTAD Ranking by TNI	88		46	
UNCTAD ranking by II	24		31	
Home country	USA	Japan	UK	France/ Spain
Total assets	107,949		32,776	
Foreign assets	30,530		19,207	
Total sales	97,854	17,742	16,978	15,791
Foreign sales	54,951		10,611	
Total employment	199,000	31,476	55,364	27,175
Foreign employment	81,670		35,885	
TNI %	41.8		62	
Total affiliates	252		240	
Foreign affiliates	212		195	
II	84.1		81.3	
Profits	10,435	1,780	3,219	716

The Research Context

- Document discovery in US litigation
- The Master Settlement Agreement (1994)
- Opening up of document collections:
 - BAT depository in Guildford
 - Websites: <http://legacy.library.ucsf.edu/>
- An unparalleled look inside the 'black box' of TTC

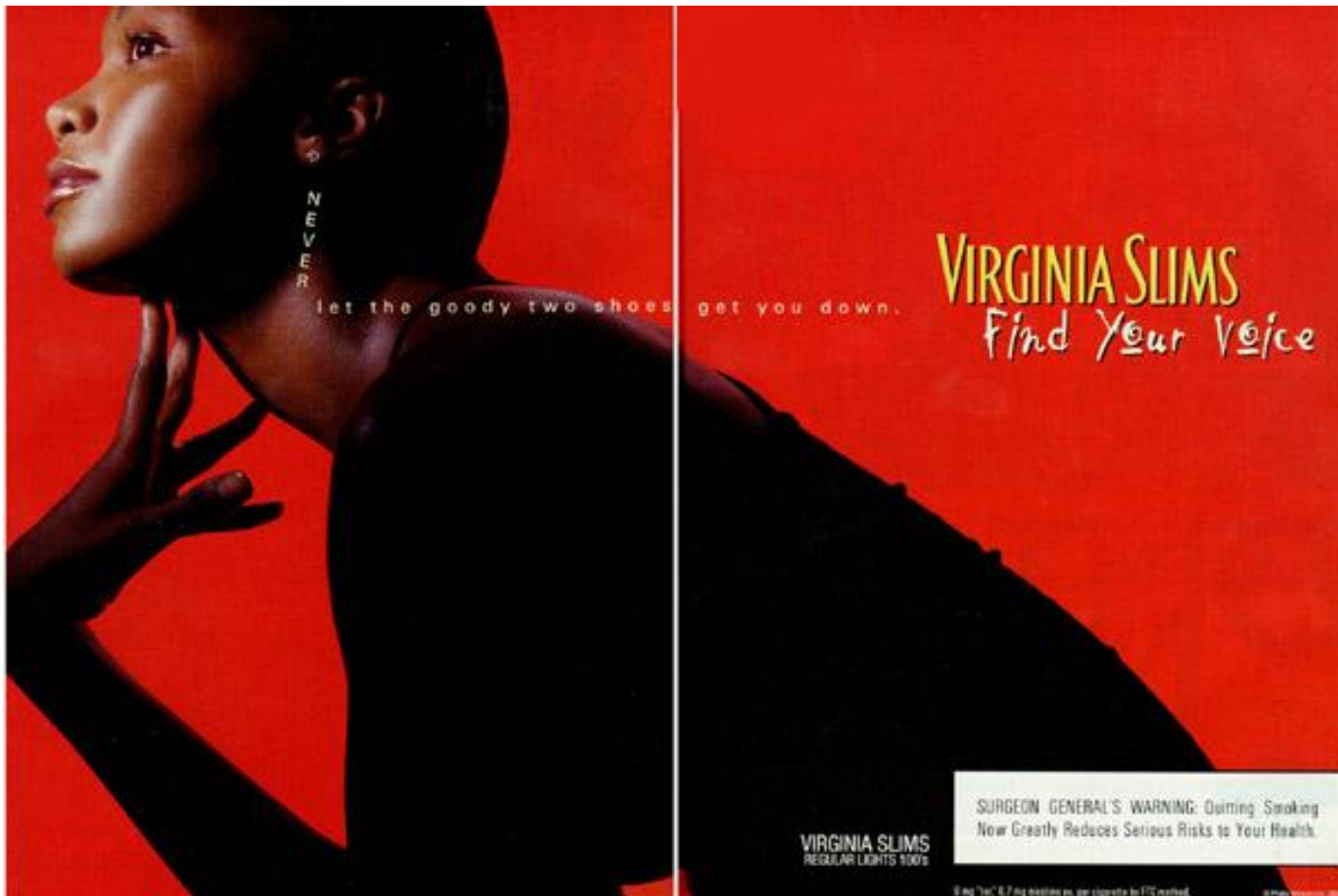
Tobacco Document Research

- Sheer volume of documents: key words searches
- Missing or destroyed documents
- The importance of context & triangulation
- Why, when, for whom, by whom & in what context were documents produced?
- Industry jargon, code words & acronyms (e.g. DNP)

Tobacco Advertising

- Cigarette marketing is dependent on branding
- Targeted consistently on recruiting new smokers:
 - ▣ Women
 - ▣ Future smokers
 - ▣ Establishing new markets: Eastern Europe; South-East Asia
- Increasing restrictions on marketing in the developed world has led TTCs to focus efforts on LDCs with weak or ineffective regulatory regimes

Targeting Women



NEVER
let the goody two shoes get you down.

VIRGINIA SLIMS
Find Your Voice

VIRGINIA SLIMS
REGULAR LIGHTS 100's

SURGEON GENERAL'S WARNING: Quitting Smoking
Now Greatly Reduces Serious Risks to Your Health.

11 mg "tar," 0.7 mg nicotine av. per cigarette by FTC method.



*Virginia Slims remembers how long a woman
had to wait for a man to light her cigarette.*

VIRGINIA SLIMS



*You've come
a long way, baby.*

© Philip Morris Inc. 1995

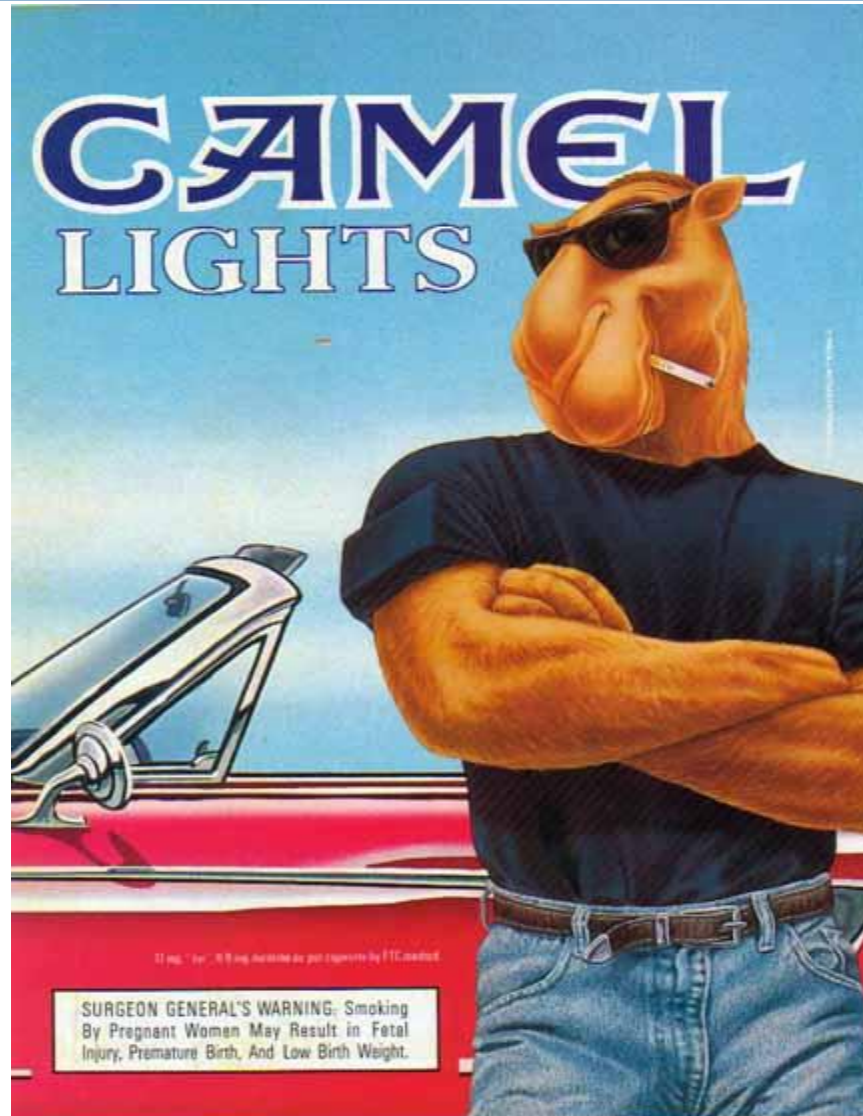
**SURGEON GENERAL'S WARNING: Quitting Smoking
Now Greatly Reduces Serious Risks to Your Health.**

8 mg "tar," 0.8 mg nicotine av. per cigarette, FTC Report Feb '95.

Found in Mom's Basement

Zachary Lieberman for P&G

'Future Smokers'



Opening New Markets

- The process of trade liberalisation has been key to establishment of new markets for TTCs
- ‘The removal or reduction of restrictions or barriers on the free exchange of goods between nations. This includes the removal or reduction of both tariff (duties and surcharges) and non-tariff obstacles (like licensing rules, quotas and other requirements). The easing or eradication of these restrictions is often referred to as promoting “free trade.”’

The WTO



- Came into being on 1 January 1995
- Superseded the General Agreement on Tariffs and Trade (GATT)
- Headquarters: Geneva, Switzerland
- Currently there are 153 members of the WTO
- Director General: Pascal Lamy (France)

The GATT- Key Principles:

- Most Favoured Nation Principle
- Non-discrimination (on nationality)
- Multilateralism
- Consensus

Formation of the WTO



- Introduced a formal dispute resolution mechanism
- General Agreement on Trade in Services (GATS)
- Trade Related Aspects of Intellectual Property Rights (TRIPs)
- Agreement on Technical Barriers to Trade (TBT)

Dispute Resolution

- WTO formalised dispute resolution mechanism, forming a Dispute Settlement Body comprised of entire WTO membership
- Appellate Body created to hear appeals
- Enforcement is usually through reciprocal measures; dependent on power politics
- Ability to bring cases depends on resources
- Most disputes have been between the two largest trading blocs: the EU and the USA

WTO and Tobacco Control

AGREEMENT	SUBJECT	POTENTIAL IMPLICATIONS FOR TOBACCO CONTROL POLICY
General Agreement on Tariffs and Trade (GATT), 1949	regulates international trade of goods	limitations on permitted tariffs levied on tobacco products as traded goods
General Agreement on Trade in Services (GATS), 1995	regulates international trade of services	limitations on permitted restrictions to the advertising, packaging, retailing, and distribution of tobacco products
Agreement on Technical Barriers to Trade (TBT)	regulates use of technical regulations & product standards to prevent unnecessary obstacles to international trade	limitations on permitted regulation of tobacco ingredients and additives to protect human health
Agreement on Sanitary and Phytosanitary Measures (SPS)	regulates use of food safety and animal and plant health measures	limitations on permitted regulation of tobacco ingredients and additives to protect human health
Agreement on Trade Related Intellectual Property Rights (TRIPS)	regulates minimum standards for intellectual property (IP) protection	limitations on regulation of packaging, health warnings, product/content disclosure, descriptors
Bilateral Investment Treaties (BITs)	regulates terms and conditions for private investment by nationals and companies of one state in another state	permit private companies to bring action directly against governments seeking to protect public health

East Asia and Trade Liberalisation

- Similar processes in Japan, Taiwan, S. Korea & Thailand
- Thai tobacco monopoly and foreign import ban
 - ▣ Range of other tobacco control measures
- U.S. Trade Representative: Section 301 of US Trade Act
- GATT panel overturns import ban, but:
 - ▣ ‘Non-discriminatory’ tobacco control/ taxes are permissible
 - ▣ Advertising bans/ labelling restrictions were also upheld

Australia and Plain Packaging



Legal Challenges to PP Laws

- Australian Constitution
- Australia-Hong Kong Bilateral Investment Agreement
- WTO TRIPs Agreement:
 - Honduras
 - Ukraine
- Follows similar use of trade agreements to stymie regulation in Uruguay.

TTC Influence on Public Policy

- Agenda setting (including the distortion of scientific evidence)
- Lobbying for favourable laws or regulations
- Blocking legislation
- Deferring legislation through ‘self-regulation’
- Frustrating or circumventing implementation
- Influencing evaluation & public perceptions of effectiveness:
 - http://www.bat.com/group/sites/uk_3mnfen.nsf/vwPagesWebLive/DO89JF9G?opendocument&SKN=1

British American Tobacco and Public Policy in Kenya

TO: M F Broughton Esq

CC:

FROM: Norman Davis

DATE: 17 November 1994

SUBJECT: Meeting with President Moi

Two points you might like to raise:

1. A positive point. The Kenyan Government has passed a "tobacco law" which looks as though it will be very successful (if properly implemented) in stopping poaching and illegal out of season growing. The law was actually drafted by us but the Government is to be congratulated on its wise actions.

BAT's Erosion of Health Legislation in Uzbekistan

- “unique in the world in terms of its singularly unexploited advertising and promotional environment...cheap enough to allow multinationals almost unrestricted market spend”
- “BAT would require an undertaking from the government not to impose restrictions on the advertising of tobacco products for a period of (seven) years from the agreement to invest”
William Wells, Schroders
- <http://bmj.bmjournals.com/cgi/content/full/332/7537/355?ehom>

Sports Sponsorship and the Circumvention of Health Legislation

THAILAND – LIGHTING UP A DARK MARKET

Lynne Klapecki of Professional Marketing Services on the approach taken to PR in Thailand, on behalf of BATUKE Thailand

☞ There was and remains only one objective – maximum media exposure for the 555 SWRT in view of the fact that all cigarette advertising and promotion is banned in Thailand.

After three months of intense activity the following goals had been achieved:

- 50 per cent of all Press pieces with branded photos
- US \$60,000 worth of coverage in newspapers and magazines
- 3.5 hours of footage on two TV sports programmes, with 40 per cent 555 SWRT coverage

- **“The approach is ‘tentative’ – a step forward at a time, get ‘slapped’, try not to ‘retreat’”**

TTC Complicity in Smuggling

- Letter from Keith Dunt (Executive Board Member BAT) to E. Grant (BAT Argentina):

‘We will be consulting here on the ethical side of whether we should encourage or ignore the DNP segment. You know my view is that it is part of your market and to have it exploited by others is just not acceptable.’

Source: <http://legacy.library.ucsf.edu/tid/bgd21a99/pdf>

Smuggling as a Routine Element of BAT's strategy

‘Explain DP/DNP/Aruba/Colombia : Because of relatively high excise in Venezuela (50%) considerable DNP re-enters the Venezuelan domestic market (currently 27.6%) from Colombia (ex Aruba and Ecuador). Our share of DNP was 44.4% in 1991 compared to our share of DP at 77%. Total market (DP/DNP) fairly stable at 17.6 bn (28% of S.A) . Likewise our S.O.M. of total market at around 68% .’

Source: <http://legacy.library.ucsf.edu/tid/i0008a99/pdf>

“SECRET: PROPOSAL FOR THE DEVELOPMENT OF GROUP BUSINESS IN COLOMBIA...

...The three companies use Romar in Aruba as their transit agent into Colombia.

Volumes and share in '91 were :

Venezuelan exports reentering Venezuela	4249 mns.
Transit share of Venezuelan market	27.5%
Bigott's share of Venezuelan transit segment	44.4%

Venezuela and Colombia are both significant transit end markets. A common strategy taking into account the needs of both markets is required.”

Source: <http://legacy.library.ucsf.edu/tid/ovl80a99/pdf>

BAT's Janus Face

- “D.N.P. and excise reduction position paper to lobby Government to be prepared by end-June (as per P.B.'s note). Cannot proceed to lobby until alternative off-shore capacity established. (See 1.5.4 . below).”

“1.5.4 Establishment of off-shore capacity resource essential to proceed to protect share of true domestic market . Bigott to review with Chile logistical/financial implications. (Target date for production capability - end May) . Paper for K.S.D. by mid-February.”

Source: <http://legacy.library.ucsf.edu/tid/bup48a99/pdf>

Why Smuggle?

- To evade taxation (tariffs and/or excise taxes)
- To put pressure on governments to reduce taxes
- To crack protected markets (import bans / high tariffs)
- To maintain market share- BAT had a higher share of DP than DNP

The Framework Convention on Tobacco Control

- First time WHO has used treaty-making powers
- Mainly demand-side measures
- Framework & protocols
 - ▣ First protocol on illicit trade in tobacco products
- Role of non-governmental organisations

TTC Attempts to Undermine WHO

- Highlighting of other health issues
- Lobbying to reduce budgets for WHO scientific & policy activities
- Attempting to enlist other IGOs (FAO, World Bank, UNCTAD, ECOSOC, ILO) to gather information on WHO and oppose its plans
- Arguing that tobacco control is a '1st World' issue
- Distorting the scientific evidence
- Attempt to join the Global Compact and CSR measures to circumvent regulation

Corporate Social Responsibility?

- Social responsibility / sustainability report

- Principles & standards:
 - ▣ Sustainable environmental management, human rights, community relations, supply chain management, employment, health & safety
 - ▣ Dedicated section on website- www.bat.com

- 'Sensible' and 'balanced' regulation

- FTSE 4 Good index

BAT and Corporate Social Responsibility



“our Business Principles, CSR governance and social reporting are not an end in themselves. They are to enable our companies to demonstrate by their actions that CSR permeates the way we do business and is not just a corporate mantra.”

-Paul Adams, June 2004

www.bat.com



BAT & CSR: Reputation Management

A Social Reporting Process “will not only help British American Tobacco achieve a position of recognised responsibility but also provide ‘air cover’ from criticism while improvements are being made. Essentially, it provides a degree of publicly-endorsed amnesty” - M Prideaux 1999

The approach should succeed in hauling us closer to a position of co-operation with governments and other important stakeholders in the developed world, while helping to limit the spread of “demonisation” from the developed world to the emerging markets. There is no such thing as a magic bullet in the field of corporate reputation management but I believe that the proposal would at least enable us to develop some good ammunition.

CSR and BAT's FCTC strategy

The WHO's proposed Framework Convention on Tobacco Control (FCTC) represents an unprecedented challenge to the tobacco industry's freedom to continue doing business. The

“Assuming that a FCTC – in whatever form – is a certainty, British American Tobacco's strategy now needs to adopt a two tier approach: lobbying and reputation management...

The question we need to ask is: Can the tobacco industry move itself ahead – fast enough and far enough – of the WHO agenda to negate the need for the convention and enhance its reputation in the process?”

- BAT (no date) Proposed WHO Tobacco Free Initiative Strategy

FCTC as key driver of CSR initiative

Put in another context and in order to relate the project on the TFI threat, I would analogise as follows- If Brent Spar and the Nigerian Ogoni issues were the major spark that pushed Shell to where they are today with social accountability, then the WHO TFI threat is our spark.
If the Colombian environmental and security mess was the one that drove BP Amoco to committing to the social accountability agenda, then the WHO TFI threat is our Colombia.
If the community riots and challenges that Rio Tinto faced in Australia were the ones that led to the company's review of its social responsibility and public commitment to doing something about it then the WHO TFI is our Australian challenge.
If PLL in the US (recall the Master settlement) was the main reason that led the industry to re-asses its position and its management of smoking issues, then the WHO TFI threat is our US PLL today.
If GMOs are the bane and business threat to Monsanto and the cause of the company's engagement with its stakeholders and in particular NGOs, then the WHO TFI is our GMOs.

And the list can continue. Time comes when organisations have to be shocked out of their comfort zones and shells and some of this unfortunately may come from externally driven rather than internally inspired and value driven sources. Then for us WHO TFI presents the best opportunity to take forward the big agenda on CORPORATE REPUTATION Management.
The KPMG proposal needs to be seen in this light. I believe that in spite of their apparent intellectual let-down when we met them, they still offer us a much better proposal than Pricewaterhousecoopers and that they will provide a much needed link and help in connection with two key areas namely, corporate activity review in the WHO TFI context and stakeholder engagement and dialogue combined with a reality check on this process - these two hopefully leading us to making a public commitment on social accountability and stating our values. This is a key test for all that we do and we must do it in order to win in this whole area.

Finally please take particular note of their point number 5 on page 6.

Shabanji

Questions for Global Health Governance

- How do we improve policy coherence between Inter-Governmental Organisations?
- Can we generalise from TTC behaviour to other Transnational Corporations?
- Is there a place for ‘Corporate Social Responsibility’?
- What are the most effective policy interventions?
 - ▣ BAT film

Summary

- Tobacco is leading cause of death in the developed world
- Increasingly TTCs are targeting poorly regulated developing world markets
- Tobacco control measures such as restrictions on marketing and availability can reduce mortality rates
- There have been attempts at regulation at the global level, which TTCs have looked to undermine
- There has been much progress in tackling the global pandemic but TTCs are extremely resourceful in resisting tobacco control measures