Tactics and Techniques of the Tobacco Industry

Session in honour of Luk Joossens

October 2016

Prof Anna Gilmore
Acknowledgements, No COI

Funders

Cancer Research UK (C38058/A15664).

US National Cancer Institute, NIH (RO1CA160695)

New Venture Fund

UK National Institute of Health Research

TobaccoTactics (www.TobaccoTactics.org):

Cancer Research UK (C48078/A16481).

ESRC (ES/L00206X/1)
An industrial epidemic: the vector - the tobacco industry

2. draft material. Privileged and confidential information.

Our overall approach to the issues is to fight aggressively, with all available resources, against any attempt, from any quarter, to diminish our ability to manufacture our products efficiently, and market them effectively.
Who are we dealing with?

STATEMENT OF THE CASE

The European Community and ten Member States joined together to commence this civil action to combat, deter, and remedy an ongoing global scheme to smuggle cigarettes, launder the proceeds of narcotics trafficking, obstruct government oversight of the tobacco industry, fix prices, bribe foreign public officials, and conduct illegal trade with terrorist groups and state sponsors of terrorism. Similarly, the Departments have commenced this action to address and remedy cigarette smuggling that fuels narcotics trafficking and money laundering on a massive scale -- a scheme that supports and finances foreign terrorist activity. The action seeks damages,
• Reviewed 65 papers in two systematic reviews
• Built taxonomy of tobacco industry political activity
  – Discursive (argument based) strategies
  – Instrumental (action based) strategies
• Same strategies repeated over time and place (with slight adaptations/changes in emphasis)
Discursive strategies

- Costs to economy & society
- Benefits to undeserving groups
- Adverse public health consequences

Proposed policy will have widely dispersed negative social & economic outcomes
Multiple voices

- A 1989 Philip Morris document:
  - ‘… we will need to talk in a variety of voices if what we want to say is to be heard, understood and acted upon. At times, we will speak as Philip Morris; sometimes we will need to speak as independent scientists, scientific groups and businessmen; and, finally, we will need to speak as the smoker’ [Philip Morris document entitled ‘The ETS Battle’ [32]].
Instrumental strategies

1. Coalition management
   a) Recruitment: staff, other businesses, trade unions, NGOs etc. Often via financial incentives.
   b) Fabrication: create front groups & astroturf organisations
   c) Fragmentation: buy silence, distract
Leaked industry docs shows use of third parties key strategy

Industry engagement alone is not sufficient
Third party involvement is key to success

Strategic Principles

- Indirect engagement over direct engagement
- National level is key
- Defending TPD content
- Focus on NGP & delegated acts in Parliament
- Focus on delegated acts in Council
Plain Packs: 110 organisations opposing

- 93% linked to TI
- Relationships rarely disclosed
- gave misleading impression of widespread opposition

Source: Hatchard, Fooks, Gilmore in press BMJ Open
# Instrumental strategies: 2. Information management

<table>
<thead>
<tr>
<th>Production</th>
<th>Produce a skewed evidence base</th>
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<tbody>
<tr>
<td>Amplification</td>
<td>Disseminate industry sponsored information/evidence</td>
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<tr>
<td>Suppression</td>
<td>Contest/suppress public health evidence. Silence public health opponents</td>
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<tr>
<td>Credibility</td>
<td>Fail to disclose industry funding</td>
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<tr>
<td>Reputation management</td>
<td>Rehabilitate industry reputation Discrediting public health advocates</td>
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In the absence of peer reviewed research to support their arguments, TTCs relied on evidence they had commissioned & the opinions of 3rd parties they had funded.
Research

Organisations/front groups

Packaging Companies/Organisations

Part of industry

Industry commissioned

Industry suppliers

Industry membership

Retail Organisations

Zimmerman & Chaudhry

KPMG

transcrime

Deloitte.

Populus

International Institute for Business

amcor

api

parkside

ECMA

Chesapeake

WEIDENHAMMER

Packaging Group

SGF

NFRN

fwd

NFRN

Business Associations

ICC United Kingdom

British Brands Group

BASCAP

ACG

M.

United States Chamber of Commerce

USCIB

Emergency Committee for American Trade

SEA

FCC

NFC

GRUR

arram

MARQUES

Retail Organisations

Members of Parliament

Sympathetic to Industry

Part of industry

Organisations/front groups

Industry commissioned

Industry suppliers

Industry membership
No. of press articles citing industry data on illicit (UK)

Tobacco Control Plan for England (heralds plain packs)

UK Consultation on SP (16 Apr -10 Aug 2012)
Published industry & independent data (NUKDP) - NATIONAL

Source: Rowell, Evans-Reeves, Gilmore. Tobacco Control
Operation Henry – UK seizures (Trading Standards Institute, 2014)

No. of cigarettes seized (sticks)

- Genuine non-UK DP cigs: 72%
- Illicit whites: 24%
- Counterfeit cigs: 5%

HRT seized (Kg)

- Genuine non-UK: 71%
- Counterfeit: 29%
WCO latest data: % of cigarettes seized by type

- Contraband: 73% (2011) vs 69% (2012)
- Illicit White: 20% (2011) vs 25% (2012)
- Counterfeit: 7% (2011) vs 7% (2012)
Better (Smart) Regulation enabled the tobacco industry to channel its misleading evidence. In this way enables highly resourced corporations to slow, weaken, or prevent public health policies. [Hatchard et al BMJ Open in press; Ulucanlar et al PLOS Med 2014, Peeters et al Tobacco Control 2015; Evans-Reeves et al Tobacco Control 2014]
Case No: CO/2322/2015, CO/2323/2015, CO/2352/2015, CO/2601/2015 & CO/2706/2015

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/05/2016

Before:

MR JUSTICE GREEN

Between:

THE QUEEN
On the application of
(1) BRITISH AMERICAN TOBACCO (UK) LIMITED
(2) BRITISH AMERICAN TOBACCO (BRANDS) INC.
(3) BRITISH AMERICAN TOBACCO (INVESTMENTS) LIMITED

- and -

SECRETARY OF STATE FOR HEALTH

First Claimants

Defendant
on Evidence

“In my judgment the Government was entitled to conclude that the tobacco company’s evidence did fall below acceptable standards during the consultation. The conclusions which have arisen from the US courts about the sharp discord between what the tobacco companies think inside their own four walls and what they then say to the outside world (especially through experts), are so damning and the evidence of the discord so compelling and far reaching” .... (5.3 justified)
Enough is enough

• Uniquely defective and lethal product
• Yet still sold as a normal product on every street corner
• By an industry, which despite vast evidence of misconduct & Article 5.3, still uses its vast resources to contest, delay, weaken and prevent every attempt to reduce its use

We need an endgame
Welcome to TobaccoTactics

TobaccoTactics is a unique academic resource that explores how the tobacco industry influences policy and public health in the UK, the EU, and internationally.

The site details the tactics and techniques the tobacco industry and its allies employ to stall tobacco control measures, such as the introduction of plain packaging in the UK or Australia. It explores topical health issues too: the growing involvement of the industry in promoting e-cigarettes for instance, or its complicity in tobacco smuggling.

TobaccoTactics also contains profiles of people, organisations and allies of the tobacco industry, charting their involvement in the smoking and health debate. This is important as the industry often uses supposedly-independent third parties to lobby politicians or to push its message in the media.

Visit the Key Topics section to view our research on current tobacco-related issues, or the What's New section to get updated on the latest developments, or search for a specific topic in the Search Bar on the left side of the screen.

For tips on how to find what you are looking for, see our Help Page.

For more information on TobaccoTactics and the Tobacco Control Research Group, see our About Us page.

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Key Topics

TobaccoTactics explores the techniques the tobacco industry utilises to influence policy and public health. Click on the links below to access more information on key topics related to tobacco industry monitoring and current tobacco control debate. If you are looking for information on something specific, you can also use the search bar on the left of the screen.

- Africa
- E-cigarettes
- EU Tobacco Products Directive
- Tobacco Industry Interference
- Leaked Industry Documents
- Lobby Groups

What's New on TobaccoTactics?

27 September 2016
- British American Tobacco does not have the right to access youth survey data following battle with the Cancer Council Victoria.

31 August 2016
- Read the Physicians for Smoke-Free Canada's blog on Japan Tobacco International's Unfair Representations during the plain packaging debate in Canada.

24 June 2016
- Read our recent blog on the way that the industry-funded International Tax and Investment Center has responded to criticism.

17 March 2016
- Read the TobaccoTactics essay on the attempts to 'said down' tobacco control in Kenya.
EU Tobacco Products Directive Revision

In April 2014, the European Union (EU) adopted the EU Tobacco Products Directive (2014/40/EU) (TPD), which regulates the manufacture, presentation and sale of tobacco products in the European Union (EU). A spokesperson of the European Parliament described the TPD as “the most lobbied dossier in the history of the EU institutions”. The TPD aims to reduce the different approaches to tobacco regulation in the 28 EU Member States, laying down minimum rules for cigarettes, cigars, pipe tobacco, cigarillos (short and slim cigars), smokeless tobacco (snus), Roll-Your-Own tobacco (RYO), and E-cigarettes. The 2014 TPD replaces and repeals the 2001 TPD (2001/37/EC) and significantly advances public health in Europe, for example it includes a ban on ‘characterising’ flavours and an increase of graphic health warnings from 30-40% to 65% on the front and back of the pack. For a detailed overview of the 2014 TPD provisions, see Tobacco Products Directive Provisions.

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1 Background to the TPD review
2 Tobacco industry’s response to the 2014 TPD
   2.1 Strategy in the Commission: Flooding consultation processes and targeting non-health Commissioners and their officials
   2.2 Strategy in Parliament: Curbing the influence of the Health Committee and targeting key MEPs in political parties and parliamentary non-health committees
   2.3 Strategy on national level: creating blocking minorities
3 How successful was the tobacco industry’s interference in the TPD?
   3.1 Delays
   3.2 TPD measures weakened
   3.3 Impact of ‘Daligate’
4 Legal Challenges
5 Issues of Concern: Better Regulation and FCTC 5.3
   5.1 Better Regulation agenda does not necessarily serve public health interests
   5.2 FCTC widely misunderstood and mis-implemented
6 Related TobaccoTactics Resources
7 External Resources
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Background to the TPD review

The idea of strengthening the TPD was first floated in 2007, and formalised in 2009 when the European Commission (‘the Commission’ hereafter) began the TPD review. This was in response to new products that had entered the market but were not covered by the 2001 TPD (for example e-cigarettes), and new emerging scientific evidence including evidence that tar and nicotine levels on tobacco packs may mislead consumers into thinking that some tobacco products are less harmful.
“Search” takes you to all pages on a topic:

a) Page title matches
TPD: Legal Challenges

...be adopted, with a spokesperson of the European Parliament describing the TPD as "the most lobbied dossier in the history of the EU institutions". For information on the tobacco industry’s efforts to undermine the TPD, go to [EU Tobacco Products Directive Revision].

5 KB (655 words) - 17:32, 18 August 2016

Page text matches

Bell Pottinger

...ired in controversies, delays and tobacco industry interference. To read more about the tobacco industry’s attempts to undermine the TPD, see [EU Tobacco Products Directive Revision].

11 KB (1,506 words) - 17:49, 30 March 2015

Third Party Techniques

* [PMI’s Lobbying Campaign to Undermine the TPD] * [TPD: Delaying the Process of Consultation]

6 KB (911 words) - 10:36, 8 August 2016

Legal Claims

* [TPD: Legal Challenges]

9 KB (1,210 words) - 12:24, 2 June 2015

Forest

...t against the proposed [EU Tobacco Products Directive Revision]. The new TPD proposed:

24 KB (3,383 words) - 11:46, 5 January 2015

Tobacco Manufacturers’ Association

...n the possible revision of the [EU Tobacco Products Directive Revision] (TPD) in December 2010. TMA Website, [http://www.the-tma.org.uk/]

21 KB (3,136 words) - 16:24, 23 August 2016

Angela Harbut
Thank you

If you’d like to know more ...

Tobacco Tactics Wiki
www.tobaccotactics.org

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