

- ISSUE BRIEF -

MANIPULATING THE PUBLIC AND REGULATORS

This issue brief is designed to support counter-marketing efforts by state tobacco control programs and tobacco control advocates. It sets forth a compelling topic and provides evidence from recently released tobacco industry documents to support its claims, concluding with statements that emphasize possible counter-marketing messages.

THE ISSUE

The tobacco industry considered and used many Corporate Social Responsibility strategies to change its image with both the general public and regulators, particularly on the issue of secondhand smoke.

THE EVIDENCE

The tobacco industry had various and conflicting strategies about how to protect against smoking bans supported by regulators and their constituents, who viewed cigarettes as deadly not only to those who smoked them but also to people exposed to secondhand smoke. Industry representatives weighed using scientific arguments versus strictly public relations tactics.

- * Traditionally, the tobacco industry tried to push a message that smoking is an individual choice that should be respected by non-smokers and asserted that all that was necessary was courtesy to accommodate the needs of both smokers and non-smokers, not further regulation. But in the minutes of a 1988 meeting of the Tobacco Institute, a tobacco industry trade group, attendees deemed previous messaging campaigns emphasizing "courtesy" and "freedom of choice" to be "unsuccessful" and praised an alternative, aggressive approach of "focusing on the extremism of anti-smokers."¹
- * Some meeting attendees felt that the tobacco companies had to take the initiative and change public opinion as the key to winning the battle on secondhand smoke, including Tobacco Institute lawyer John Rupp, who reportedly stated that "the greatest threat to public smoking is not legislation, but rather social attitude."²

The tobacco industry realized that the public and regulators were increasingly embracing the creation of smokefree zones which could seriously harm its profits. The companies wanted to avert this catastrophe, but their fear of litigation liability stopped them from going as far as they wanted to.

- Philip Morris considered changing its traditional stance on objecting to all restrictions on public smoking as a way of avoiding the most draconian forms of regulation. An undated report proposed agreeing to voluntarily and proactively "embrace designated smoking areas," with the important condition that Philip Morris would not concede that it had changed its opinion that the underlying science did not support such a policy.³ One of the company's main concerns in changing this policy was whether it could adversely impact its defensive position in products liability litigation, and therefore the policy was not adopted.
- A 1988 Brown & Williamson proposal to endorse a "threshold" level of safe exposure to secondhand smoke was also rejected because it could be viewed as an admission of causation in a lawsuit if it could be proved that the plaintiff's exposure was higher than the threshold.⁴

Through its trade group, the Tobacco Institute, the tobacco industry financed an elaborate public relations effort in the 1990s to convince regulators and members of the public that secondhand smoke regulation was not needed. In a tactic reminiscent of George Orwell's "doublespeak" in the novel 1984, the Tobacco Institute called these public relations spokespeople its "truth squad."

- In 1991, the Tobacco Institute launched a media tour called the "truth squad" featuring Gray Robertson, the president of Healthy Buildings International, an indoor air quality management company, the purpose of which was to persuade regulators that smoking bans were not necessary and that proper ventilation could adequately address the problem of secondhand smoke exposure.⁵
- The tobacco industry and Robertson tried to hide their relationship because they knew it would undercut Robertson's credibility as an unbiased "expert" when he gave media interviews or testified in front of regulators. In a 1987 letter to a Philip Morris executive in which he declined an offer to work specifically for Philip Morris, Robertson asserted that his testimony before regulators would be much more effective if he was not aligned with any one tobacco company but rather was seen as an impartial witness whose positions "occasionally and coincidentally coincide[d]" with the tobacco industry, and asserted that it would be a disadvantage for him to be seen as a tobacco industry spokesperson.⁶ In his letter, he boasted that "despite massive media attention, to date no one has identified such a link," between Healthy Buildings International and the tobacco companies, and claimed that his success as a witness for the Tobacco Institute lay in maintaining the "invisible bond" between them.⁷ Robertson warned that "[b]y too closely associating with any tobacco company . . . [we] will undoubtedly damage our value as 'unbiased' and independent expert witnesses."⁸

"The desired outcome of this approach is legislation with as few 'gives' as possible in order to ensure another period of 'peace' and hold off FDA regulation." – Philip Morris

Tobacco companies used websites and accompanying advertising campaigns to try to put a friendlier face on the same old business policies and practices.

- * In an effort to be more proactive in creating a favorable company image, in 1999 Philip Morris launched a major communications program that included a website and an accompanying advertising campaign which proclaimed that Philip Morris would no longer dispute public health officials' stance that smoking causes disease and is addictive.⁹ Instead, Philip Morris employed a strategy of "societal alignment" to rebuild credibility with its customers, potential regulators, and society at large.¹⁰
- * In a 1999 memo discussing the rationale for its new positions posted on its website, Philip Morris admitted "we have not done a good job of effectively communicating our positions regarding key tobacco issues, either to the general public or to our own employees."¹¹ Philip Morris's new policy was "to align our public communications regarding this issue with conclusions of the public health authorities."¹² The company believed that "defining and improving PM's corporate image will have a positive, long-term impact on the Philip Morris family of companies."¹³
- * Philip Morris would still maintain that its scientific views were correct internally and when they were faced with litigation or regulation, but conceded that it was losing the public relations war by continuing to voice those views, and instead opted for a message it felt was more consistent with what society expected it to say.¹⁴
- * Despite making some apparent concessions on causation and addiction, Philip Morris hedged on this strategy when discussing the particularly thorny issue of secondhand smoke, an area fraught with peril if smoking becomes socially unacceptable and harder to practice due to the creation of smokefree zones through regulation. Philip Morris claimed that its website message on secondhand smoke did not represent a change of its position that there is no scientific proof that exposure to secondhand smoke is harmful.¹⁵

There was a delicate balance required between the tobacco companies' desire to benefit from changing their images and their concern about staving off further regulation.

- * Despite Philip Morris's recognition of the need to do something to change its image and gain credibility, it did not really want to change its operating policies or agree to new regulation. A memo written in 1994

warned that although the company could gain a public relations advantage by saying it would act to voluntarily curb the damage caused by its products, it should not appear open to actual regulation.¹⁶ The memo stated: "Needless to say, a major practical concern with this scenario is premature disclosure of the Company's plans or willingness to accept new restrictions."¹⁷ For instance, at the time, the company was particularly concerned about staving off Food and Drug Administration regulation. The memo stated:¹⁸

THE MESSAGE

- * **The tobacco industry had internal debates about whether to use purely scientific arguments or public relations techniques to state its position on issues such as secondhand smoke, but neither worked well for the industry and involving public relations in science offended some industry scientists.**
- * **The tobacco industry fears legal liability from litigation even more than the threat of secondhand smoke regulation poses to its profits.**
- * **The tobacco industry used paid "experts" sent on media tours and to testify before regulators to appear as neutral supporters of the industry position on secondhand smoke, and then tried to hide their connection.**
- * **The tobacco companies, particularly Philip Morris, used websites and accompanying advertising campaigns to try to convince the public and regulators that they had changed the way they do business.**
- * **Changing corporate image did not mean the tobacco companies were willing to submit to further regulation, which they continued to fight.**

This study was conducted with the financial support of the American Legacy Foundation. This issue brief does not necessarily represent the views of the Foundation, Foundation staff, or its Board of Directors.

¹ Joint Meeting on ETS - London, England. July 15, 1988. Bates No. 87675288. Available at: <http://legacy.library.ucsf.edu/tid/xhc77a00>.

² *Id.* at Bates No. 87675278.

³ Moderate Indoor Smoking with Adequate Ventilation. No date. Bates No. 2023895490-2023895491. Available at: <http://legacy.library.ucsf.edu/tid/uad77a00>.

⁴ Wells, J. Kendrick. Thresholds. October 13, 1988. Available at: <http://legacy.library.ucsf.edu/tid/mdb77a00>.

⁵ Malmgren, KL. Media Tours # Legislative Witnesses. January 28, 1991. Available at <http://legacy.library.ucsf.edu/tid/zjk91f00>.

⁶ Robertson, Gray. Sick Building Syndrome. August 11, 1987. Bates No. TIDN0016358. Available at: <http://legacy.library.ucsf.edu/tid/knc77a00>.

⁷ *Id.* at Bates No. TIDN0016359.

⁸ *Id.*

⁹ Lissy C. Friedman. Philip Morris's Website and Commercials Use New Language to Mislead the Public Into Believing It Has Changed Its Stance on Smoking and Disease. *Tobacco Control*, 16:e9 (2007) at <<http://www.tobaccocontrol.com/cgi/content/full/16/6/e9>>; Joshua S. Yang, Working to Shape What Society's Expectations of Us Should Be": Philip Morris's Societal Alignment Strategy, *Tobacco Control*, 17 (2008): 391-398.

¹⁰ *See id.*; *see also* Joshua S. Yang. Working to Shape What Society's Expectations of Us Should Be": Philip Morris's Societal Alignment Strategy. *Tobacco Control*, 2008;17:391-398.

¹¹ Web Site Backgrounder. September 20, 1999. Bates No. 2076742771. Available at <http://legacy.library.ucsf.edu/tid/gpg77a00>.

¹² *Id.*

¹³ Annual Meeting -- 2000 Draft Board. February 16, 2000. Available at: <http://legacy.library.ucsf.edu/tid/gxg77a00>.

¹⁴ Web Site Backgrounder. September 20, 1999. Bates No. 2076742772. Available at <http://legacy.library.ucsf.edu/tid/gpg77a00>;

Bozell/Eskew Advertising. Mea Culpa/Rev. A. January 6, 1999. Available at: <http://legacy.library.ucsf.edu/tid/hse77a00>; MES Analyst Speech. October 23, 2000. Available at: <http://legacy.library.ucsf.edu/tid/tyg77a00>.

¹⁵ Web Site Backgrounder. September 20, 1999. Bates No. 2076742780-2076742781. Available at <http://legacy.library.ucsf.edu/tid/gpg77a00>.

¹⁶ Summary Analysis of Strategic Alternatives. October 17, 1994. Available at: <http://legacy.library.ucsf.edu/tid/exd77a00>.

¹⁷ *Id.* at Bates No. 2048391998.

¹⁸ *Id.* at Bates No. 2048392000.