

## INDUSTRY WATCH

## The low tar lie

For perhaps the first time in history, the tobacco industry is having its own virulent smoke blown back in its face. Confronted with a continual onslaught of litigation, the nation's tobacco manufacturers are no longer able to cower behind the shelter of public relations and well nourished political connections. The industry's real history is now being told, but not in the sidestepping half truths that have characterised the industry's signature response to critical inquiry. This time, the story is told among millions of pages of once confidential industry documents made public through legal discovery. Rumours have become facts. Telltale is now truth. The tobacco industry is being forced to eat its own words.

One of the most compelling parts of this new history is the evolution of low tar and low nicotine cigarettes. While the tobacco industry publicly vowed to place the public's health above every other facet of its business, it privately acknowledged its inability to create a safe product. Supported by quotes pulled directly from the industry's own internal documents, the real history is now manifest.

**The late 1950s brought growing internal industry concern and acknowledgement that smoking causes health problems**

"...if we can eliminate or reduce the carcinogenic agent in smoke we will have made real progress."—1954, *Liggett*.<sup>1</sup>

"Boy, wouldn't it be wonderful if our company was first to produce a cancer free cigarette? What we could do to the competition."—Mid 1950s *Hill & Knowlton* (industry legal counsel) quoting an unnamed tobacco company research director.<sup>2</sup>

"...the evidence is irrefutable that the companies were aware by 1954 of the early epidemiologic studies and the 1953 Wynder-Graham mouse skin painting study (linking cigarettes and lung cancer)."—late 1980s attorney work product by industry legal counsel Jones, Day Reavis & Pogue for an industry client (possibly B&W).<sup>3</sup>

**The industry has long known that this could effect profits . . .**

"From a source of business standpoint, results from the 1976 study confirm the trend seen since the 1930s away from the brands perceived as most irritating and least responsive to the cigarette controversy towards low T/N [tar/nicotine] brands and menthols."—1976, *Lorillard*.<sup>4</sup>

**. . .so it decided to capitalise on smoker's fears . . .**

"I know this sounds like a wild program, but I'll bet that the first company to produce a cigarette claiming a substantial reduction in

tars and nicotine . . .will take the market."—1958, *Philip Morris*.<sup>5</sup>

"I share MCA's overall conclusion that the switching study confirms the rightness of our five year plan; focusing company effort against smokers' health concerns . . .Low T&N brands seem to be satisfying smokers' intellectual T&N concerns."—1976, *Lorillard*.<sup>6</sup>

**. . .by assuring smokers that cigarettes are safe, and that the industry has the public's best interest in mind**

"There is only one problem—confidence, and how to establish it; public assurance, and how to create it. . . .And, most important, how to free millions of Americans from the guilty fear that is going to arise deep in their biological depths—regardless of any pooh poohing logic—every time they light a cigarette."—1953, *Hill & Knowlton*.<sup>2</sup>

"We accept an interest in people's health as a basic responsibility paramount to every other consideration in our business."

"We believe the products we make are not injurious to health."—1954 industry advertisement.<sup>7</sup>

**Secretly, the industry began to explore ways to make a "safer" cigarette, recognising that there were some problems with this approach . . .**

*Lowering nicotine levels could allow smokers to wean themselves off the smoking habit:*

"To reduce the nicotine per cigarette as much as possible and thus satisfy the trend of consumer demand . . .might end in destroying the nicotine habit in a large number of consumers and prevent it ever being acquired by new smokers."—1959, *BAT Co.*.<sup>8</sup>

*Promoting "safer" cigarettes implied that all other cigarettes were hazardous:*

"When the health question was first raised we had to start by denying it at the PR level. But by continuing that policy we had got ourselves into a corner and left no room to manoeuvre. In other words, if we did get a breakthrough and were able to improve our product we should have to about face, and this was practically impossible at the PR level."—1962, *BAT Co.*.<sup>9</sup>

*. . .although some wondered aloud about the ethics of what they were attempting:*

"The first is concerned with the ethical question: 'Is it morally permissible to develop a safe method for administering a habit forming drug when, in so doing, the number of addicts will increase?'"—1978, *Liggett*.<sup>10</sup>

**Reducing carcinogens in smoke was discussed in an effort to create a “medically acceptable cigarette”**

“...which will take 7–10 years because it will require a major research effort, because carcinogens are found in practically every class of compounds in smoke.”—1961, *Philip Morris*.<sup>11</sup>

**A variety of filtered cigarettes was developed, and reduced tar and nicotine levels were heavily promoted**

“Reduced tar brands have increased to 79% share of voice—with ULTs [ultra low tars] now accounting for 19% of the total. ULT advertising is growing at a faster rate than any other category.”—1980 *Lorillard report showing the increase in total industry advertising expenditures for reduced tar categories from 1974–79*.<sup>12</sup>

**Unfortunately for the industry, smokers did not care much for the taste of reduced tar cigarettes and, as expected, the lower nicotine levels became a problem as well. Smokers were not receiving the same nicotine “satisfaction” and therefore began to compensate for the reduction in nicotine by smoking more cigarettes, thus increasing their health risk**

“If, as claimed by some anti-tobacco critics, the alleged health hazard of smoking is directly related to the amount of ‘tar’ to which the smoker is exposed per day, and the smoker bases his consumption on nicotine, then a present ‘low tar, low nicotine’ cigarette offers zero advantage to the smoker over a ‘regular’ filter cigarette.”—1972, *RJ Reynolds*.<sup>13</sup>

“Those familiar with the physiological aspects of smoking have suggested that low ‘tar’ consumers are not satisfying their nicotine need. In addition, focus group work has shown that when smokers switch from a high ‘tar’ to a low ‘tar’ brand they claim to smoke more. This may be empirical evidence of a need to satisfy some physiological urge, perhaps nicotine.”—1978, *Brown & Williamson*.<sup>14</sup>

**But at least one company never shared this information with smokers . . .**

“I’m not aware that RJ Reynolds has ever warned consumers about the health effects of compensation.”—1998, *RJ Reynolds*.<sup>15</sup>

**Nor did it reveal that filtering or reducing the tar in cigarettes does very little to reduce the hazards of smoking...**

“From an historical perspective, the adoption of filters in the late 1940s and early 1950s was probably not animated by a desire to lower deliveries. Advertising claims to the contrary aside, earlier filtered cigarettes had deliveries equal to or in excess of their unfiltered cousins.”—late 1980s *attorney work product by Jones, Day, Reavis & Pogue for an industry client*.<sup>3</sup>

“We have been taking note of public health concerns by developing ‘lighter’ products, but we cannot promote these products as ‘safer’ cigarettes because we simply don’t have

sufficient understanding of all the chemical processes to do so.”—1997, *BAT Co*.<sup>16</sup>

“It has been argued for several years that low tar and ultra low tar cigarettes are not really what they are claimed to be . . . the argument can be constructed that ULT advertising is misleading to the smoker.”—1990, *RJ Reynolds*.<sup>17</sup>

**. . . or that the tobacco industry is not really concerned about the health of smokers at all**

“It has been stated that CTR is a program to find out about the ‘truth about smoking and health’ . . . Let’s face it. We are interested in evidence which we believe denies the allegations that cigarette smoking causes disease.”—1970, *Philip Morris*.<sup>18</sup>

**Instead, the industry began exploring ways to increase the nicotine in reduced tar cigarettes so that smokers stay hooked**

“Review the use of organic acids and nicotine salts in tobacco burning cigarettes, and recent attempts to develop an ultra low ‘tar’ cigarette with enhanced nicotine yield.”—1990, *RJ Reynolds*.<sup>19</sup>

“...current research is directed toward increasing the nicotine levels while maintaining or marginally reducing the tar deliveries.”—1981, *Lorillard*.<sup>20</sup>

*It tried different blends of tobacco leaf...*

“We did decide that we needed a little more oomph, a little more pizzazz, if you will, in an ultra low tar cigarette. So we manipulated the blend to raise the nicotine level slightly. . . . They didn’t care what the nicotine level was. They just wanted a consumer acceptable product that was ultra low tar.”—1998, *RJ Reynolds*.<sup>21</sup>

**. . . genetically engineered tobacco (“Y1”) which doubled the amount of nicotine . . .**

“...increased nicotine content versus traditional tobaccos: Y1 = 6.5%. Conventional flue cured = 3.25–3.5%.—undated, *Brown & Williamson*.<sup>22</sup>

**. . . and even added ammonia to increase the “free” nicotine of the smoke and hence, the nicotine “kick” to the smoker.**

“Philip Morris began using an ammoniated sheet material in 1965 and increased use of this sheet periodically from 1965 to 1974. This time period corresponds to the dramatic sales increase Philip Morris made from 1965 to 1974.”

“Ammoniated flue cured tobacco . . . product characteristics: milder smooth taste; higher smoke pH; cleaner taste with more free nicotine; stronger physiological impact with less harshness.”—undated (est 1980), *RJ Reynolds*.<sup>23</sup>

“All US manufacturers except Liggett use some form of AT [ammonia technology] on some cigarette products.”—1989, *Brown & Williamson*.<sup>24</sup>

**The ammonia technology for increasing nicotine had the added benefit of being able to “fool” FTC tar machines**

“The suspected relationship between free nicotine concentration and smoke impact implies that we could create an ultra low tar cigarette that produces much more impact than its delivery would suggest.”—1979, *Brown & Williamson*.<sup>25</sup>

**And again, the industry came to the conclusion that there really is no “safe” cigarette, anyway**

“Because known carcinogens are produced from such a wide variety of organic materials during the process of pyrolysis, it is most unlikely that a completely safe form of tobacco smoking can be evolved.”—mid 1960s, *BAT Co.*<sup>26</sup>

“The (smoking) habit can never be safe . . .”—1978, *Lorillard*.<sup>10</sup>

**The industry relied instead, on consumer perception of the safety of its products to keep sales going . . .**

“Cigarette brands have always offered consumers two basic benefits: (1) physical smoking satisfaction; (2) emotional (image/social) reinforcement. In the addition, various ‘rational’ benefits have been grafted on to these two basic benefits . . . diet, harshness reduction, clean teeth, health reassurance. . . . All these rational benefits have merely added new axes on which to position the core benefits. . . . Strategic priority three: develop/exploit existing/emerging rational benefits.”—1985, *Brown & Williamson*.<sup>27</sup>

“ . . . to get a truer picture of the low tar category based on share trends and SDIs, NRD has come up with a suggested definition: ‘perceived’ low tar category. . . . It will include all brands perceived by consumers to be low tar . . . as well as all brands with ‘lights’ or ‘low tar’ in their name.”—1982, *Philip Morris*.<sup>28</sup>

“Very few smokers claim to know the tar and nicotine levels of their brand. . . . On the other hand all smokers like to think of their brand as having no more than average levels and probably less. . . . However, the i[m]pression of ‘average or less’ is probably required for a successful [brand] entry.”—1976, *Lorillard*.<sup>4</sup>

**. . . and encouraged this perception with advertising that contained explicit health claims . . .**

“You can see why the Parliament Filter Mouthpiece gives you Maximum Protection. You’re So Smart to Smoke Parliaments.”—1953 ad for *Parliaments*, *American Tobacco Co.*<sup>29</sup>

“Guard Against Throat Scratch . . . smoke Pall Mall the cigarette whose mildness you can measure. Outstanding . . . and they are mild!”—1946 ad for *Pall Mall*, *American Tobacco Co.*<sup>30</sup>

**. . . or implicit ones . . .**

“Lucky Filters: you don’t even have to light it to like it . . . rolled tobacco and charcoal in the filter does it. Nourishes the taste . . .”—1968 ad for *Lucky Filters 100s*, *American Tobacco Co.*<sup>31</sup>



1953 ad for *Parliament* cigarettes from the Richard W Pollay 20thc Cigarette Advertising Collection.

“How do you make a better cigarette? Here’s how: Tareyton’s activated charcoal scrubs the smoke to smooth the taste the way no ordinary filter can.”—1970 ad for *Tareyton* cigarettes, *American Tobacco Co.*<sup>32</sup>

“Dual filter does it! Filters as no single filter can for mildness . . . for taste.”—1985 ad for *Tareyton* cigarettes, *American Tobacco Co.*<sup>33</sup>

“Ultra lights smokers: Can you get at least 50% less tar and nicotine and still get flavor in a cigarette? Now you can.”—1990 ad for *Now* cigarettes, *RJ Reynolds*.<sup>34</sup>

“Cambridge Lowest only 1 mg.”—1992 ad for *Cambridge* cigarettes, *Philip Morris*.<sup>35</sup>



1946 ad for *Pall Mall* cigarettes from the Richard W Pollay 20thc Cigarette Advertising Collection.





1990 ad for Now cigarettes from the Richard W Pollay 20thc Cigarette Advertising Collection.



1992 ad for Cambridge cigarettes from the Richard W Pollay 20thc Cigarette Advertising Collection.

### ...and of course, by continuously lying about the hazards of smoking

"We would like the public to be fully informed."—1968, Philip Morris.<sup>36</sup>

"No scientist has produced clinical or biological proof that cigarettes cause the diseases they are accused of causing. . . . We are not going to knuckle under to the Times or anybody else who tries to force us to accept a theory which, in the opinion of men who should know, is half baked."—1969, American Tobacco Co.<sup>37</sup>

"Cigarettes have never been proven to be unsafe."—1978, Philip Morris.<sup>38</sup>

"Despite all the research going on, the simple and unfortunate fact is that scientists do not know the cause or causes of the chronic diseases reported to be associated with smoking. . . ."—1990, RJ Reynolds.<sup>39</sup>

"It's not scientifically established that smoking by itself causes disease."—1998, RJ Reynolds.<sup>40</sup>

**Fortunately, despite the tobacco industry's attempts to conceal what it knows about the "safety" of its products, the truth has been uncovered within the tobacco industry's own internal files.**

"The intent and effect . . . [of] low tar, low gas, charcoal filters, all natural or ultra low tar cigarettes . . . was to derogate from the warning or awareness of the health hazard and to reassure the smoker in his decision to continue smoking."—late 1980s attorney work product by Jones, Day, Reavis & Pogue for an industry client.<sup>41</sup>

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Full citations (including abstracts) for most industry documents cited may be accessed at <http://www.tobaccodocuments.org>. Document images will be available at this location by the end of August 1999. The following are temporary access points:

\*May be accessed at: <http://www.mnbluecrostobacco.com/toblit/trialnews/docs/search.asp> by searching on the exhibit number.

†May be accessed at: <http://www.tobaccoresolution.com> by searching by Bates number on the appropriate company site.

‡May be accessed at: <http://www.house.gov/commerce/TobaccoDocs/documents.html> by searching by Bates number.

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- 2 Hill & Knowlton. Forwarding memorandum. Mid 1950s. MN trial exhibit 18,904.\*
- 3 Abrams T, Crist P, Kaczynski S, et al for Jones, Day, Reavis & Pogue. Undated attorney work product. Brown & Williamson. Bates range: 681879254-681879715.‡
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- 11 Wakeham H. Tobacco and health R&D approach. November 15, 1961. Philip Morris. MN trial exhibit 10,300.\*
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- 16 Tunistra T. Speaking up. Tobacco Reporter. December 1997. British American Tobacco Co.

- 17 Product differentiation group—the over-smoking issue (tar to nicotine ratio). 1990. RJ Reynolds. MN trial exhibit 13,139.\*
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- 19 Untitled report on Project GT. 1990. RJ Reynolds. MN trial exhibit 13,129.\*
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- 32 Advertisement for Tareyton cigarettes. 1970. American Tobacco Co.†
- 33 Advertisement for Tareyton cigarettes. 1985. Philip Morris. Bates range: 2042412224.†
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## Giving 10% to gain eternity

*After US Congress failed to enact legislation in the summer of 1998 that would have ratified the June 20, 1997 deal to settle lawsuits filed by state attorneys general (AGs) against tobacco companies, in November, 1998 the AGs agreed to a different Master Settlement Agreement (MSA) with tobacco companies that did not require Congressional approval (see <http://www.naag.org/glance.htm>). Just as had occurred with the first settlement, the AGs hailed the MSA as a major advancement for public health. However, the public health community once again criticised the new settlement's unwarranted protection for the tobacco companies. Although some health advocates initiated court challenges to block the MSA, the majority of the public health community have been urging state legislatures to spend a portion of the settlement funds for tobacco control programmes. Both of these public health strategies seem to be failing, as most state courts have already approved the MSA, and only a few state legislatures have appropriated a significant amount of MSA funds for tobacco control programmes. With unprecedented future legal protection granted by the state AGs in exchange for money, it appears that the tobacco industry has emerged from the state lawsuits even more powerful.*

While monitoring the settlement negotiations between the state AGs and the tobacco industry last summer and fall, and after analysing the MSA last November, many public health and civil justice advocates concluded that the MSA provides far greater benefits for tobacco manufacturers than for public health.

After failing to convince the AGs to oppose the deal, health advocates, hospitals, counties, and others went to court in many states to challenge the MSA. Of these, court challenges remain in nine states, with the only public health based challenge existing in Pennsylvania. Additionally, several federal lawsuits now challenge the MSA, and experts anticipate far more litigation in the future, some of which ultimately may unravel the MSA.

During this past year, many AGs have greatly exaggerated the MSA's public benefits while not even acknowledging its tobacco industry protection provisions; Congress (at the request of the National Governor's

Association, the National Association of Attorneys General, and the National Conference of State Legislatures) gave away the federal share of Medicaid settlement funds to the states with no conditional requirements for tobacco control programmes; courts in most states have politically rubber stamped the MSA without evaluating its merits or its many legal precedents and contradictions; more tobacco industry protection loopholes have been discovered in the MSA; violations of the MSA have gone unenforced; and only a few states have allocated an adequate amount of settlement funds for tobacco control programmes.

That said, the MSA did contain public health benefits, chief among them is the \$0.40 per pack price hike by the cigarette companies to more than cover the costs of payments to the states. Reports filed by cigarette makers in the first and second quarters of this year state that domestic cigarette sales dropped by slightly