RESEARCH PAPER

''Avoid health warnings on all tobacco products for just as long as we can'': a history of Australian tobacco industry efforts to avoid, delay and dilute health warnings on cigarettes

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Objective: To review critically the history of Australian tobacco industry efforts to avoid, delay, and dilute pack warnings on cigarettes.
Design: Systematic keyword and opportunistic website searches of tobacco industry internal documents made available through the Master Settlement Agreement.
Results: Four industry strategies and six recurrent arguments used by the industry are described, which were used to thwart the passage of three generations of health warnings (implemented in 1973, 1987, and 1995). These strategies are shown to have been associated with major delays in the implementation of the warnings and in keeping them inconspicuous, unattributed to the industry and non-specific, and particularly in delaying the use of warnings about addiction. The industry today continues to oppose warnings, which might ''repel'' smokers from tobacco use.
Conclusions: Efforts by governments to introduce potent health warnings will be resisted by the tobacco industry. Tobacco control advocates should anticipate and counter the strategies and arguments used by the industry, which are described in this paper if they wish to maximise the use of the pack as a vehicle for raising awareness about the harms of smoking.

The right to information about goods and services sold in the marketplace is one of eight fundamental consumerist principles.[1] Tobacco products, in causing their immense global death toll, are exceptionally strong candidates for the fullest application of this principle. Warnings and consumer advice on packaging about safe usage, handling and disposal, dosage, contraindications, and emergency procedures have a long history in the regulation of the marketplace. The tobacco industry provides a case study of fundamental resistance to this principle.

Globally, efforts to avoid and weaken health warning proposals have been accorded very high priority by the tobacco industry. In 1978, British American Tobacco (BAT) UK director Stewart Lockhart wrote to a German colleague: ''…we can expect health warnings on all tobacco products in your country within a fairly short time, and this is very much to be regretted. Obviously the Group policy should be to avoid health warnings on all tobacco products for just as long as we can.''[2] In this paper we discuss strategies employed by the Australian industry to avoid, delay, and dilute warnings, showing that once the global momentum for warnings made them inevitable, the industry's primary focus was to keep warnings as general, non-disease specific, and inconspicuous as possible, with a particular concern to avoid warning smokers that nicotine was addictive. We first provide a brief history of warnings in Australia, and then review arguments and strategies used by the Australian industry to oppose warnings.

METHODS

The paper is drawn from extensive searches of internal tobacco industry documents conducted during 2001–2003 on the Master Settlement Agreement websites (http://www.tobaccoarchive.com/), sites containing documents from BAT and its affiliates at the Guildford, UK document depository, and from a collection of Australian tobacco retail trade journals. A full description of the searching methods used can be found at http://tobacco.health.usyd.edu.au/site/gateway/docs/research.htm#search.

RESULTS

International precedent in the 1960s

The world's first pack warning ''Caution—cigarette smoking may be hazardous to your health'', appeared in the United States in 1966. The private international industry position on warnings was at first tentative. In 1964 Addison Yeaman, legal counsel to Philip Morris (PM) USA, gingerly advised his employers that the introduction of warnings might work in their favour:

> ''The issuance of the [1964] Surgeon General's Report will, in my opinion, insure the success of that defense [the assumption of risk by smokers]…if the industry can steel itself to issue a warning. I have no wish to be tarred and feathered, but I would suggest the industry might serve itself on several fronts if it voluntarily adopted a package legend such as 'excessive use of this product may be injurious to health of susceptible persons'… This is so controversial a suggestion –indeed shocking—that I would rather not try to anticipate the arguments against it in this note but reserve my defense.''[3]

Abbreviations: BAT, British American Tobacco; CBRC, Centre for Behavioural Research in Cancer; EEC, European Economic Community; ICOSI, International Committee on Smoking Issues; MCDS, Ministerial Council on Drug Strategy; PM, Philip Morris; TIA, Tobacco Institute of Australia

Figure 1 First generation of health warnings on cigarette packs.

The UK industry position was similarly tentative. In 1969, BAT's DG Felton wrote to British Tobacco Australia arguing that there was no good case against a general warning:

> ''Perhaps it shows the extent of my 'conditioning' by anti-smoking propaganda, but I cannot think of a good scientific argument against a cautionary warning in general terms... When the cautionary label was introduced in the U.S.A., some people believed that this served warning on the consumer of the 'risk' and that it would put an end to all law suits against tobacco companies...''[4]

Despite this, the Australian industry aggressively resisted warnings from the late 1960s to the 1990s.

Three generations of health warnings in Australia

Australia has seen three generations of tobacco product pack warnings (figs 1–3), each bitterly contested by the industry.

First generation: 1973

Federal cabinet papers from the 1960s Menzies (Liberal-conservative) era reveal that the government resisted efforts by the National Health and Medical Research Council and Health Minister to warn the public about the dangers of smoking. These stated it was ''not for the Commonwealth to take initiative or give lead in any public campaign directed to the dangers of smoking'' because this was not considered something that was a ''Commonwealth government function''.[5] This view was not universal, with the Victorian Liberal Party in July 1967 calling on its state government ''to compel cigarette manufacturers to carry a message on packets that smoking could be a hazard to health''.[6] Nonetheless, historian Ian Tyrrell notes that during this period ''despite the new medical evidence, and despite creation of new anti-smoking groups, it is remarkable how slowly health messages about smoking were translated into policy by Australian Federal and State governments''.[7]

In June 1969, legislation was introduced into the Australian Federal parliament enabling a warning to appear on cigarette packs. However, Australia's eight states and territory governments each needed to pass their own legislation before warnings could be introduced. State enactment was inconsistent, partly reflecting intense industry lobbying. PM's public relations manager, Andrew Whist, wrote to his New York headquarters that because of ''…New South Wales' refusal to legislate…we…appear to have won some time…it is hard to see how pack labelling could practicably be enforced during 1970''.[8] Industry lobbying effectively delayed the introduction of the inaugural warning by 52 months: the legislation was not implemented nationally until January 1973, when the small, inconspicuous statement: ''Warning. Smoking is a health hazard'' appeared (fig 1).

Second generation:1987

Health officials soon began advocating for the bland and non-specific warning to be strengthened. Following a decade of lobbying from health groups, in May 1985, Australian health ministers agreed to introduce four different warnings. Those initially agreed were: ''Smoking kills'', ''Smoking is addictive'', ''Smoking causes lung cancer and heart disease'',

Figure 2 Second generation of health warnings on cigarette packs.

Figure 3 Third generation of health warnings on cigarette packs.

and ''Smoking damages your lungs''. These were to take up 20% of the front and back of the pack, and appeared in white type on a black background. Again the industry resisted, particularly with regard to ''Smoking is addictive'' (see below). In 1985, a Tobacco Institute of Australia (TIA) publication declared: ''At a top level meeting of industry executives, it was decided that all proposals [on new health warnings] would be opposed and the overturn of decisions sought.''[9] This obstructive policy was implemented, resulting in the then Federal Minister for Health, Neal Blewett, observing: ''Ministers have conducted detailed negotiations with the tobacco industry in a sincere effort to reach agreement. Despite our willingness to reach an agreed position, I regret that the industry was unable to make any serious attempt to compromise.''[10] After further industry opposition causing the abandonment of ''Smoking is addictive'' and ''Smoking kills'', four rotating warnings were finally introduced in January 1987 with an agreement that the health ministers would not seek further amendments for five years. The new warnings (fig 2) were: ''Smoking causes lung cancer''; ''Smoking damages your lungs''; ''Smoking causes heart disease''; and a warning widely considered a ''soft'' compromise: ''Smoking reduces your fitness''.

Third generation:1995

In 1991, the Ministerial Council on Drug Strategy (MCDS) directed its Tobacco Issues Committee to examine the case for introducing new health warnings.[11] Over the next three years the industry worked frantically to keep warnings weak, and in particular to avoid ''addiction'' appearing. Beyond its domestic concerns over the potential impact of the new warnings, the international industry saw Australia as a line in the sand it needed to draw. There was ''great concern over the warning label and Ad ban issues in Australia, and generally the extremely hostile environment which has the potential to spread worldwide''.[12] PM was ''appointing a top man and devoting considerable resources to the matter'' and asked if (BAT's) Wills would ''upgrade their effort and work with us to create an industry platform''.[12]

The Centre for Behavioural Research in Cancer (CBRC) was commissioned by the inter-government Tobacco Issues Committee to produce a report on which health warnings were likely to be most effective with youth.[13] Included among the CBRC's 12 recommended warnings were the two rejected by the industry in 1985:''Smoking kills'' and ''Smoking is addictive''. These were to occupy at least 25% of the front of the pack, and appear on the ''flip-top'' instead of at the foot of the pack. In addition, the entire back of the pack was to carry detailed information about the health effects of smoking.[13] Massive industry resources were devoted to fighting these proposals, and practically all documents available from this period are correspondence between the Australian and USA offices of PM, indicating the intense concerns held for the global repercussions of the new warnings. PM's international CEO Geoff Bible wrote to PM Australia's CEO, David Davies: ''it is imperative that this initiative be stopped''[14] and was reassured that ''all concerned in Australia are well aware of the importance of the issue''.[15] The industry strategy distilled into the primary objective of ensuring that relatively weak European warnings were introduced rather than the proposed tough warnings. Despite aggressive lobbying to this end, a compromise set of proposals was approved by all eight states and territories for their own legislation. Six of the proposed 12 rotating warnings were dropped and the size of the back panel information reduced to one third of this panel.[16] The new warnings were to take effect from 1 April 1994,[17] but after further opposition, were finally introduced in January 1995 (fig 3).

The industry's objectives: avoid attribution and weaken warnings

The industry's main objectives over health warnings were to first avoid them completely, but then when momentum for their introduction made them inevitable, to ensure that they were not attributed to the industry, but to government, and to weaken the texts that were used.

Attribution

Since at least 1975, the international industry had warned its members of the ''…disastrous consequences that would result from any Group Company voluntarily accepting a warning on packs or advertisements which was not attributed to government or the medical authorities. An unattributed warning, imposed by legislation, would not of course place the Group Companies at risk in the same way; since the Company would be complying with the law rather than associating itself with the view expressed in the text of the warning. It is strongly recommended…that under no circumstances should any Group Company accept voluntarily

unattributed warnings ...''.[18] This government attribution would allow the industry to claim that while smokers had been warned, the warnings were mandated by the government, and were not put there by the industry, thus allowing them to continue to publicly dispute the claims being made and to thereby confuse smokers.

Weakening the text of warnings

In 1969, DG Felton from BAT's UK research planning division wrote to Brian Fordyce of British Tobacco Australia urging that disease specific warnings should be avoided strenuously:

> ''Obviously, no-one in the industry would favour [the introduction of warnings] … A vague statement such as 'Cigarette Smoking may be harmful to health' is a lot easier to live with than something more specific, such as 'Excessive cigarette smoking is associated with an increased risk of death from lung cancer'.''[4]

This BAT policy continued for years. In 1977, it was reflected in a joint BAT/PM position paper presented at the Operation Berkshire meeting.[19] (''If Governments suggest wording implying or stating smoking causes certain diseases, Companies must strenuously resist with all means at their disposal.''[20]) As late as 1984, a high level BAT memo advised:

> ''As you know, it has been our policy to resist any mention of specific diseases and always to have warning clauses attributed to an appropriate government authority … WE WISH TO RECONFIRM THAT THE POLICY THAT WE HAVE OUTLINED IN THE PAST AND WHICH IS STATED IN THE BOARD GUIDELINES ON WARNING CLAUSES IS STILL VALID. YOU SHOULD, THEREFORE, NOT IN ANY WAY CHANGE YOUR APPROACH.''[21] (emphasis in original)

Up until 1992, 60% of BATCo's international cigarette production carried no pack warnings.[22] When warnings were extended to all brands, BATCo claimed that the ''inconsistency'' was being ''corrected'' because of ''community expectations''.[23] Despite the fact that the industry had often been at pains to disown health warnings as government impositions, they blamed the past ''inconsistency'' on ''government initiatives''.

In 1992, the industry decided that their main chance was to promote the adoption of the proposed European Economic Community (EEC) health warnings. These warnings were at the bottom of the pack, comparatively small, and non-explicit, and under EEC agreements, nations would be able to select from between two and six out of 15 optional warnings. Heavily influenced by local tobacco industry lobbying, the three most popular warnings selected by the European nations were ''Smoking when pregnant harms your baby'' (nine nations adopting); ''Protect children: don't make them breathe your smoke'' (six nations); and ''Don't smoke if you want to stay healthy'' (six nations). Significantly, none chose ''Smoking causes addiction.''[24–26]

Strategies used

The Australian industry has used four main strategies to fight health warnings:

- submissions to government
- privately influencing politicians and the media
- using third parties
- commissioning research.

Submissions to government

In 1969, despite warnings being already mandatory in the USA and the UK, the Australian Tobacco Manufacturing Industry wrote (on behalf of all companies) to the Australian Government, objecting to any health warnings and arguing that the Health Department was overstepping its proper responsibilities; that there was insufficient evidence to justify warnings; that the proposed policy was motivated by puritanical prohibitionism; that the use of fear and coercion was intolerable in a liberal democracy; and that the warnings ''quite unjustifiably require manufacturers to attribute their products deprecating statements which they, as manufacturers, cannot in conscience warrant''.[27] In 1985, the TIA's submission to government made ''the strongest possible objection to the proposed new rotating health warnings''[28] and was circulated by INFOTAB to its Global Issues Working Party as ''the most comprehensive document so far prepared by an industry source''.[29]

Privately influencing politicians and the media

In parallel with the industry's formal presentations of its case against warnings, it continued covert lobbying campaigns targeting key decision makers in government and political party machines as well as influencing media coverage. Lobbying was a constant throughout the four decades of warnings battles. In the early 1970s, with 84% of Australians in favour of warning legislation,[30] politicians supporting the industry's case needed to be mindful of their vulnerability to accusations of placing the industry's commercial interests before public health. While notifying head office that ''the industry has had some small success in…delaying the requirement for warning notices on packs'' PM Australia noted that ''these successes however have been noted in the press and have tended to harden the line against the industry which is taken by some politicians.''[31] In May 1972, the *Bulletin* magazine ran a lengthy article about the lobbying to get the warnings adopted, describing the pro-warning inclinations of parliament as a ''response to relentless pressure from outside and within the government plus a judgment of the mood of the electorate'' noting that ''cigarette companies are well known as major contributors to the election funds of all political parties, but the government decided that it could not afford to allow the view to spread that it was a creature of such blatant political 'bribery'.''[32]

Despite these statements, PM claimed to have directly influenced both politicians and the media on the issue. Their lobbying in 1970 involved ''strong representations to the Victorian [Liberal] party secretary, while simultaneously working hard to line up support from other state delegations'', with claims that this had caused the pack warning issue to be dropped from the agenda of a state Liberal Party conference.[33] Around the same time PM also claimed to have ''dissuaded'' journalists from covering the NSW government's failure to deal with labelling in 1970: ''Our first task is now to protect the New South Wales Government from too much adverse publicity—by exerting pressure on media chieftains. This is being done presently, so far with some success. A pleasing feature was the lack of media coverage of the decision …an industry delegation managed to infiltrate the journalists' camp and dissuade them from pushing the issue.''[8]

For the third generation warnings to be implemented, legislation was required in all eight Australian states and territories, and the industry's political influence strategy centred on state Liberal Party politics. The Western Australian Labor government was the first to gazette its regulations, but lost power at the beginning of 1992. The industry believed it could use its influence within the new incoming conservative Liberal party to stop the regulations becoming law. The NSW Liberal Premier (and future BAT Australia chairman) Nick Greiner was one who was targeted.

PM's then international president Australian ex-patriot Bill Murray, wrote ''as an Australian'' to Greiner requesting that he bring ''a sense of balance and common sense back into the regulation of tobacco in Australia'' and maintain the existing warnings.[34] Significantly, Murray was so worried about the Australian developments that he was prepared to fly to Australia should Greiner agree: ''…I stand ready to meet with you at your pleasure to discuss these issues.''[34]

Even more pivotal was the state of Victoria where the then Victorian Liberal opposition leader, Jeff Kennett was coopted by PM to advocate for the weak European-style warnings. Kennett was elected Victorian Premier in October 1992, and PM was confident that he would carry the case for the European warnings to his political counterparts around the country.[35 36] The plan was ''to get Kennett to push for the EC labelling… He has the eastern State premiers with him and John Harvey, our political consultant who is close to Kennett…is working that route.''[37] Several memos suggest that PM believed it had something of an ability to direct Kennett's actions. Another memo states: ''Since the…meeting [with the Western Australia health minister], I have spoken with Kennett who has phoned [Western Australia premier] Court and told him to 'over-ride his [health] Minister'. The Party machine will also speak to Court… I have asked Kennett to regulate his EEC directive as a matter of urgency… Kennett continues to be very much on side…''.[38] Local company WD & HO Wills (part of the BAT group) and BAT's UK chief Martin Broughton also met with Kennett. The company's notes record that Kennett ''was clearly annoyed that his health minister had not achieved that result [that is, the adoption by the Australian health ministers of the European warnings]… Mr Kennett was advised that any warnings or statements regarding addiction would be unacceptable to BAT''.[39]

The documents record intense lobbying between January and September 1993. PM reported in January 1993 that their chances of overturning the bill were poor[40] but in February 1993, after Western Australia's new health minister Peter Foss declared publicly that he would be proceeding with the new warnings, there was a coup. ''Premier Court phoned Foss the next morning (Saturday) and summoned him to a meeting Monday; Foss was carpeted and given the industry's submission and our QC's opinion on Labor regulations and told to discuss the issue with our 'consultant' [sic] following which he was instructed to meet with the industry.''[41] That the author of this memo, Phil Francis, knew of Court's actions suggests a noteworthy political intimacy. Francis also reported that he had met with a Health Department official ''to firstly 'buy time' and secondly, disrupt the existing regulations by forcing amendments''.[42] Despite these Western Australian triumphs, PM's Australian CEO Henry Goldberg was frustrated about the national situation, observing that year: ''Our greatest danger…is that the push against us is not really within the power of political leaders to control: New South Wales: [Premier] Fahey is scared that the Independent-controlled Upper House will roll him. South Australia: Independents hold the balance …Victoria/Western Australia: Even in these two states, where the [Liberal] Premiers are onside, they do NOT have control over their Health Ministers.''[43]

When all states and territories approved a compromise set of proposals later in 1993, David Davies at PM Australia first wrote to Bill Webb in the USA that ''our deliberations obviously will include an assessment of the alternatives that are now available to us to impede at any level implementation of these regulations''.[44] Later a disconsolate Davies reported: ''We have learned that the Victorian E.C. compromise was never raised at the meeting which focused solely upon a discussion of the relative merits of the original proposal… It would be unrealistic to anticipate success in blocking the new recommendations.''[45]

In never-say-die spirit, PM's Henry Goldberg wrote to Jeff Kennett noting that the MCDS recommendations were contrary to the position Kennett had stated publicly would be Victoria's position (that is, adopting the EEC warnings). Goldberg argued that ''proposals to radically alter packaging will do nothing to increase this awareness [of the health risks of smoking] and will do nothing to address concerns about smoking incidence in young people'' as well as appealing to Kennett's strongly conservative political agenda by framing warnings as an unfair burden on business.[46] Goldberg's position here was disingenuous. His purported concern about the new warnings failing to increase awareness and dissuade young people from smoking applied even more to the smaller, inconspicuous warnings PM had been promoting via Kennett. Similarly, his reference to ''an extremely burdensome and expensive regime'' can be put in context when considering that Australian tobacco companies had produced special packaging for Qantas in-flight sales, and for small export markets such as the Solomon Islands (total population 354 000).[46] When it suited their marketing plans, they were able to alter packaging for these small markets without suffering the alleged ''extreme'' burden said to be involved.

The industry remained interested in using national and international politics on the issue, as illustrated by Wills' plan to fight third generation legislation through research and lobbying. Wills' 1995 research specifically determined that ''some smokers displayed a high degree of antagonism towards the government…while some were indifferent or positive'',[47] suggesting an interest in using smokers to lobby government officials. Even more disturbing was Wills' intention to use international trade agreements, planning in 1994 to provide ''useful material to legislators given the task of ratifying, and passing suitable legislative enabling regulations, for the new GATT/TRIPPS …'' over the next one to three years.[48]

Using third parties

In both the second and third generation battles, the industry coopted other organisations and industries to support their lobbying. In 1976, when plans were announced in Tasmania to extend warnings from packs to advertisements, the industry set up a seemingly independent sporting umbrella body, the Confederation of Australian Sport, and worked closely with its executive director, Wayne Reid, to assist him in running industry arguments (''The salary and office expenses of the Confederation's President, Wayne Reid, are paid by the Australian tobacco manufacturers… Naturally, we were closely involved in the preparation of Reid's submission…'').[49] Tasmanian sporting groups declared that the introduction of warnings would ''end cigarette company sponsorship of sport… The Bill is meddlesome nonsense which serves no purpose and will surely deprive Tasmanian organisations of major sources of income… Surely the Government does not seriously believe that the cigarette companies will continue sponsorships backed by promotional banners and the like which carry a boldly proclaimed announcement denigrating their products.''[50] Letters were written to newspapers by sporting administrators continuing the argument that the warning ''has been spoken countless times'' so it was not necessary to extend it further to advertisements.[51]

A similar strategy was used in 1992, when a lobbyist was ''employed, gaining support of such allies as Business Council of Australia, Confederation of Australian Industry, media, unions, advertising, growers, suppliers''.[52] The Victorian Premier received over 35 000 letters that year,[52] presumably initiated by the industry. In 1993, as Geoffrey Bible was

becoming increasingly desperate to stop the third generation warnings, he wrote asking his Australian colleagues ''is there anything we can do there to prevent introduction of the label?'' and suggesting that if PM sponsored the maxi yacht *Australia One*, this public benefaction might ''do the trick'' and stop the new warnings: ''this is exactly the type of problem we are hoping *Australia One* will enable us to overcome.''[53] PM's Goldberg replied: ''Even at its best, I do not believe that this will be easily bankable against specific concessions. Rather, it will open doors and cement longer term relationships.''[43] However, yachting connections were used that year to attempt to derail the early Western Australian initiative to introduce the warnings into law. PM had been ambushed by the action of the WA Health Minister who had pushed the regulations through without consulting the Premier. Describing it as a ''complete surprise'', Bible was advised that John Bertrand, the prominent Australian yachtsman, would be contacted to lobby against the bill being implemented.[54] Bertrand was a ''sailing friend'' of the WA Premier,[37] with ''good contacts with the Liberal Party in Western Australia''.[54]

Commissioning research

In 1992, in response to the CBRC's report proposing third generation warnings, the industry commissioned a series of critiques of the CBRC report through its lawyers.[55–61] With these as ammunition, on 18 June 1992, the TIA filed legal proceedings against the Anti Cancer Council of Victoria (authors of the CBRC report on labelling) seeking declaration that the report was misleading and deceptive and seeking an injunction to prevent its further distribution.

Industry law firm Clayton Utz commissioned a national poll about smokers' ''awareness of health warnings about smoking'', known as the ANOP study after the market research company that conducted the interviews.[62] The study asked respondents three questions ''seeking spontaneous health associations with smoking'', including two which probed specifically for health risks (''have you heard, read or seen anything about smoking and health?'' and ''Can you think of anything at all that you have heard about smoking and health?''). Not surprisingly, 99.7% of the sample, under such questioning, were able to say that they had ''heard'' something about smoking and health.[62] This exercise produced a predictable result that allowed the industry to support its claim that awareness of the harmfulness of smoking was all but universal, thus negating the need for new warnings.[63]

Arguments used to avoid, delay, and dilute health warnings

Within the four strategies outlined above, the industry has used six main arguments to oppose the introduction and strengthening of warnings:

- tobacco warnings are the start of a ''slippery slope''
- claims made in warnings are unsubstantiated by the evidence
- warnings are an assault on free enterprise and the national economy
- warnings don't work
- smokers already know that smoking is harmful
- warnings desecrate pack design and branding.

''Slippery slope''

In pre-warning days, when arguments could be couched in incredulity that tobacco should be singled out from other consumer products,[27] the industry used ''slippery slope'' or ''thin edge of the wedge'' rhetoric, arguing that the policy would inexorably bleed into other product areas.[27]

> ''The precedent is one which could easily come to affect other industries. For instance, a number of medical scientists claim that butter and milk are dangerous to the health of some people. It is recognised that drinking too much liquor or reckless driving are hazards to life… can we expect all these products to carry a 'danger' label …?''[64]

This argument appears to have quickly lost momentum when the dire predictions of rampant warnings never materialised.

Warning claims—particularly on addiction—are unsubstantiated

It is well known that the industry spent decades flatly denying the claims made against it by medical science. The industry opposed the 1969 warnings by arguing that ''those who choose to attack the industry cannot prove scientifically that there is a causal relationship between cigarette smoking and health… In fact, less than 2% of all Australian smokers contract lung cancer and the question still to be answered is whether smoking is really to blame''.[27] (emphasis in original). This line of argument continued into the battle over second generation warnings. The TIA's 1985 submission to government argued that the proposed warnings ''Smoking causes lung cancer and heart disease'' and ''Smoking damages your lungs'' made ''statements which go beyond the epidemiological evidence''; that ''Smoking kills'' meant ''everyone who smokes will die as a result of their smoking'', concluding ''this warning is alarmist and emotive and simply not true''.[28]

Industry resistance was particularly strong over ''smoking is addictive''. Warning that smoking (or nicotine) is addictive has long invoked strong opposition from the international tobacco industry because of the immense legal implications. Paul Knopick from the US Tobacco Institute advised a colleague in 1980 that ''Shook, Hardy and Bacon [the tobacco industry's lawyers] reminds us, I'm told, that the entire matter of addiction is the most potent weapon a prosecuting attorney can have in a lung cancer/cigarette case. We can't defend continued smoking as 'free choice' if the person was 'addicted'.''[65] Despite the many documented instances of senior officials from the international tobacco industry privately acknowledging to colleagues that nicotine was addictive,[66] Australian tobacco company officials joined their overseas counterparts in repeatedly denying in public that nicotine was addictive from at least the early 1980s, and the TIA's 1985 submission on the second generation warnings argued that the proposed warning ''Smoking is addictive'' ''cannot be substantiated''.[28]

Warnings are an assault on free enterprise and the national economy

While the industry framed its early arguments in terms of lack of scientific justification and the injustice of being first in an imagined slippery slope of product health warnings, the potential negative impact of warnings on smoking rates was never far from the industry's concerns. A lengthy article in the South Australian Tobacco Journal in 1970 railed against the warnings, citing the number of people employed in the industry and its economic contribution to Australia—an implicit admission that the introduction of warnings threatened to depress demand for tobacco products and thus reduce employment in the industry.[67] In 1972, a Victorian tobacco journal argued that Queensland and NSW ''were unlikely to take any action [on warnings] because of the

substantial tobacco-growing and marketing interests in the state''.[68]

In 1975, PM's Andrew Whist prepared notes to be used when lobbying state politicians on the proposed health warning legislation that would see the warnings extended to advertisements.[69] Marked ''not to be left with contact'', the notes covered the litany of tobacco industry arguments about ''unanswered questions'' on smoking and health and how the industry contributed to the economy. Presumably, the subtext here was intended to convey that if one was a major contributor to the economy, it was irrelevant whether one's product harmed consumers. Whist suggested that the moves to impose warnings on advertisements suggested that Australian governments were ''bent to chart a course parallel to the Eastern Bloc and Socialist Scandinavia'', where governments sought to warn consumers about harmful products, and that requiring tobacco advertisements to carry warnings ''goes against all tenets of free enterprise''.[69] In 1985, the industry suggested that a government that benefits from tobacco taxation should not also insist on warnings, arguing: ''how can consumers believe these new warnings knowing that governments are still taking around half the price of each packet in tax?''[9]

When PM's Bill Murray attempted to persuade the NSW Premier on the industry's position in 1992, he argued that it was only ''…'nanny' states as we refer to them, which have taken a position similar to that advocated for Australia''.[34] Henry Goldberg also drew on bad-for-business arguments when writing to Kennett stating: ''…[the warnings proposal] …imposes on cigarette manufacturers an extremely burdensome and expensive regime for the packaging of their products which is without precedent. It constitutes one of the most egregious attacks upon commercial freedoms of business in Australia… Victoria has an obligation to a business such as PM, which is contributing substantially to the economy of this State, to ensure that its commercial freedom is safeguarded.''[46]

A related argument was that the new warnings would cost ''a hell of a lot of money to provide different warnings for different states… each manufacturer would be up for an increased cost of millions of dollars, a couple of million dollars for each additional warning''.[70] The lobby group Action on Smoking and Health Australia compiled a table of tobacco products produced by each of the three Australian manufacturers, which were on sale in one or a few states only. Wills marketed five such brands, Rothmans eight, and PM 12, showing that the industry already provided unique brands and packaging for particular state markets, concluding ''Clearly this is another of their fatuous claims''.[71]

Warnings don't work

An amusing early platform of industry arguments was the idea, used by both the Australian industry[27] and the US Tobacco Institute,[72] that some smokers would be so traumatised by warnings that they would ''turn to'' other drugs. Claims of warning ineffectiveness became more central to later industry argument against the strengthening of warnings. By the late 1970s, the international tobacco industry had made opposition to health warnings one of its priorities. All members of the International Committee on Smoking Issues (ICOSI) Task Force—including PM Australia's Andrew Whist—received notes titled ''Effect of warning labels on cigarette use questionable'', which argued that because smoking was increasing in nations with health warnings, they were failures and that ''well-known anti-smoking spokespersons have stated that that they do not believe that warning labels serve an educational value, as the public is already well-informed about the smoking and health controversy''.[73] Whist described warnings as ''a spectacular failure around the World''.[69]

In 1990, a ''questions and answers'' sheet for use by PM lobbyists rehearsed answers to ''Why don't the companies provide additional information and warnings about constituents on the cigarette package labels?'' suggesting that the proliferation of warnings on consumer goods could cause ''warning overload''—that is, a tendency on the part of consumers to begin to ignore warning labels entirely. And that ''one study found that consumers thought products with rather elaborate warning labels were safer than those without them''.[74]

Such rhetoric was used in Australia. A record of a lobbying visit to the Federal Liberal Opposition's health portfolio spokesman noted he had been advised that ''…there was new evidence coming out to show that too strident or too many warnings actually tempted people to try the 'forbidden fruit'. Cigarettes selling fast in London at the moment are labelled simply DEATH'' [a reference to a boutique brand, Death].[75–77]

If warnings were indeed counterproductive to intentions to dissuade people from smoking, then the tobacco industry would surely have been advocating for the most brazen warnings possible. That it coached its employees in providing the opposite advice can only indicate that it understood that warnings were against its interests—that is, were likely to depress demand.

Smokers already know smoking is harmful

The industry began to argue that smoking was an informed adult choice, made by individuals who understand the health risks of smoking (''anyone who is not deaf or dumb cannot now be unaware of the hazards''.[78] As the CEO of PM wrote to a senior Australian politician:

> ''Australians are aware of the warnings against smoking—one would have to be asleep in a cave for twenty years not to be aware—and a change in the existing pack warnings is thus unnecessary. Young Australians should be educated as to the issues involving smoking, but this can be better accomplished in a family or school environment …''[34] (emphasis in original)

The aforementioned 1993 ANOP study was commissioned specifically to demonstrate that smokers knew the risks of smoking.[62] The TIA used this in its 1995 submission to the Australian Senate Reference Committee on Community Affairs, arguing: ''the tobacco industry believes that people who smoke do so fully informed of the reported health risks of smoking. …If the public is adequately informed then the necessity or logic of further government intervention must be questioned.''[79]

Warnings desecrate pack design and branding

This argument first appeared in opposition to the second generation of warnings and moved the debate away from content and towards form. Warnings were framed as ''commandeering of tobacco companies' most valuable commercial property—their brand designs''.[28] The warnings would ''disfigure'' packs ''purely because of the size of the proposed warning, not because of its wording… the integrity of the pack and its familiarity and appeal to smokers will be degraded and changes in buying behaviour will result… this detriment to manufacturers will fall upon them in a random way depending on the degree to which their pack integrity is distorted by the 20 percent warning notice''.[28]

Significantly, an industry submission argued that different brands were ''essentially the same product'' so that ''brand presentation [becomes] supremely important. Brands are

designed to satisfy the expectations and perceptions of smokers about the product they choose to buy''.[28] This was an intriguing argument to advance as a reason to keep health warnings minimal. Presumably it was an obtuse way of saying that the industry felt it important to avoid changes that would challenge smokers' expectations and perceptions that smoking was benign by the imposition of larger more explicit warnings that would draw smokers' attentions far more than previously.

This rhetoric continued into the third generation battle. In Murray's letter to Greiner in 1992, he insisted that the warnings would be ''a defacement of the cigarette package and trademarks''.[34]

The industry's main objective: minimising the effect of warnings on consumers

Despite all of these arguments, it is clear from the documents that the industry is most concerned about the effect of warnings on their customers, and what can be done to minimise the effects, as demonstrated by their research efforts. In 1993, PM commissioned research to test whether the proposed warnings would influence ''overall acceptability'' and to ''determine the effect of the new warning statement on purchase frequency.''[80] The study found that ''Purchase intention [for Peter Jackson] dropped from a very positive 93%…to 84%…for the proposed pack. This constitutes a significant drop in purchase intention. …The proposed health warnings generally had a negative impact on the smokers.''[80] A few months later, flush with its failure to defeat the third generation warnings, the industry began to review where it had gone wrong. Martin Riordan from Wills sent a proposal for a ''Fightback Campaign'', suggesting a strategy to campaign against ''generic-style pack labelling''.[48] Riordan suggested that Wills Australia was considering funding research ''designed to counter the outrageous use of lack of awareness [of health effects of smoking] research which the antis have so successfully put in NZ, Canada, Australia and in EC nations''.[48] Following Riordan's suggestions, WD & HO Wills conducted focus group research on the new warnings in 1995, before their implementation, concluding that ''the new health warning [sic] is unlikely to have a significant effect on smoking behaviour, brand choice and brand image/quality'' but cautioning that these results could only predict the ''short-term effects of the labelling change''.[47] Smokers felt that the big warnings would ''…'cheapen' the look of the…upmarket brands like (Benson & Hedges and Dunhill)...''.[47] In response to these fears, both Wills and PM have explored the idea of covering the pack, and thus the warning. Wills' 1995 report suggested: ''…smokers may look for alternative ways to package their cigarettes. Cigarette cases or leather pouches could again become an important fashion accessory for smokers and may be considered as promotional items'',[47] and in 1993 PM had discussed (but not pursued) subverting the warnings by printing the warnings on the discardable pack wrap or marketing a plastic reusable warning-free cigarette case.[81]

DISCUSSION

We have reviewed the 26 year history (1969–1995) of Australian tobacco industry efforts to first totally avoid, and then to dilute, delay, and disrupt the implementation of three generations of health warnings. Opposition to health warnings came from the highest possible echelons in the industry. The motivation for the opposition changed over time from one of point blank rejection of any warning, followed by efforts to keep warnings small, non-specific, and avoiding any mention of addiction, through to explicit concern that proposed formats might be off-putting to smokers.

What this paper adds

The international tobacco industry's historical opposition to pack warnings that hold potential to motivate smokers to quit is well appreciated by those active in tobacco control.

Australia was among the first nations to propose large, prominent and disease specific pack warnings, including one on addiction. The international tobacco industry was greatly concerned to halt this development lest it establish precedents for other nations. Detailed analysis of the tobacco industry's own account of its strategies and arguments for avoiding and weakening health warnings are elaborated for the first time.

The industry' successes in achieving the delays and dilutions described meant that millions of commencing and continuing smokers in Australia were insulated from proposed explicit statements that otherwise could have accompanied each and every tobacco purchase. The Australian industry could have elected to follow the lead of the US in adopting health warnings from 1966, but worked to delay the introduction of the first warning for eight years (1973). The ''addiction'' warning was first proposed for Australian packs in 1985, but did not appear for another 12 years, during and after which the industry repeatedly made public statements that nicotine was not addictive.

The evidence we have presented will be useful to litigants against the tobacco industry who will be able to point to industry efforts to prevent and delay explicit warnings reaching consumers.

What of the future? The industry's own documents suggest that tactics such as attacks through international trade agreements, and the provision of covers for packs bearing warnings, may be used in the future.

Tobacco control policy analysts have long regarded the virulence of industry reaction to policy proposals as litmus tests of their importance. The strength of industry protests is seen as a direct measure of their potential to affect tobacco consumption. On this test, the history of the tobacco industry's opposition to health warnings ranks them high as a tobacco control measure. Today, the ''gold standard'' for health warnings is that adopted by Canada in 2000,[82] Brazil in 2002,[83] planned for Malaysia[84] and Singapore,[85] and just announced for Australia in 2004.[86] These feature graphic colour photographs of the health consequences of smoking and have already been associated with increased intentions to quit.[87] The Canadian tobacco industry fought strongly to prevent these warnings being adopted.[88] Both PM and BAT strongly opposed their introduction in Australia, saying ''we have serious objections to the use of…our own packaging for transmitting graphic or 'shock' images''[89] and proposing that the warnings might ''repel Australian smokers, and whether this is the purpose of health warnings''.[90] On the government's announcement of their introduction BAT commented that the proposed large warnings were likely to ''affect the intellectual property'' of its brands and that the proposed 9 month time to introduction was ''ambitious''.[86] *Plus ça change…*

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