

RESEARCH PAPER

A mire of highly subjective and ineffective voluntary guidelines: tobacco industry efforts to thwart tobacco control in Malaysia

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Objective: To describe tobacco industry efforts in Malaysia to thwart government efforts to regulate tobacco promotion and health warnings.

Methods: Systematic keyword and opportunistic website searches of formerly private tobacco industry internal documents made available through the Master Settlement Agreement and secondary websites; relevant information from news articles and financial reports.

Results: Commencing in the 1970s, the industry began to systematically thwart government tobacco control. Guidelines were successfully promoted in the place of legislation for over two decades. Even when the government succeeded in implementing regulations such as health warnings and advertising bans they were compromised and acted effectively to retard further progress for years to come.

Conclusion: Counter-measures to delay or thwart government efforts to regulate tobacco were initiated by the industry. Though not unique to Malaysia, the main difference lies in the degree to which strategies were used to successfully counter stringent tobacco control measures between 1970 and 1995.

Malaysia is likely to be recorded in the history of tobacco control as the South East Asian showpiece of the tobacco transnational corporations. Sandwiched between Thailand and Singapore, two countries with among the most comprehensive tobacco control laws in the world, Malaysia has provided an attractive commercial environment for British American Tobacco (BAT) (market share 67.5%), Japan Tobacco Inc* (market share 16.7%), and Philip Morris (market share 15.8%).¹ The tobacco companies have insisted to the Malaysian public that they are a responsible industry, abiding by the law and respectful of governmental policy. However, their internal documents reveal they orchestrated a sophisticated plan to counter perceived government threats, thwarted the government's efforts to regulate tobacco promotion, and worked successfully to reverse government decisions. They took pride in their Malaysian successes and presented them as case studies at their international meetings, chronicling how they lobbied their way out of restrictions and regulations.

Advocacy for tobacco regulation in Malaysia first emerged in the early 1970s but failed to translate into meaningful tobacco control legislation in the years that followed. After three decades, regulations remain weak and the tobacco industry conducts its business without major restraints. Between 1970 and 2000, adult per capita consumption was 1377 and 1274 cigarettes, respectively, peaking at 1963 around 1980.² Per capita consumption has been gradually declining, partly due to increased taxes on cigarettes.³ Total cigarette consumption increased from 8.2 billion sticks in 1970 to 18.6 billion sticks in 2000.² In 1986 about 41% of adult males and 4% of adult females smoked.³ By 1996 male smoking prevalence had increased to 49.2%, with that for women remaining much lower at 3.5%.² The tobacco industry claimed a higher prevalence of male smoking in 1991, with

average prevalence for males above 35 years being about 60%.⁴

Evidence from other countries show prominent and specific health warnings on cigarette packs and comprehensive advertising bans have been effective in reducing tobacco consumption.⁵⁻⁶ Prior research has documented the tobacco industry's efforts to obstruct tobacco control legislation⁷⁻⁸ and how information on the hazards of smoking on cigarette packs in developing countries has generally been weaker.⁹ This paper illustrates how the industry thwarted a developing country's government efforts to introduce health warnings and tobacco advertising restrictions.

METHODS

This paper is based on internal documents obtained through searches conducted on the Master Settlement Agreement (MSA) websites between November 2001 and May 2002.¹⁰ Additional searches were conducted on secondary document collection websites: Tobacco Documents Online,¹¹ Legacy Tobacco Documents Library,¹² British Columbia's Tobacco Industry Documents,¹³ and the National Clearing House on Tobacco.¹⁴ To facilitate systematic document analysis initial searches focused on geographic and country terms for Malaysia such as malay, kuala lumpur, sabah, and sarawak which produced an initial set of 3323 documents. A snowballing search strategy was then used where terms from the metadata were formulated into new searches to run on the industry and secondary websites between August and November 2002. The final analysis is based on 154 documents identified to be relevant to this topic. For details refer to: http://tobacco.health.usyd.edu.au/site/gateway/docs/pdf/Malay_Search_Strategy.pdf. Although BAT has had the longest presence and current market dominance in

Abbreviations: BAT, British American Tobacco; B&W, Brown & Williamson; CMTM, Confederation of Malaysian Tobacco Manufacturers; MTC, Malaysian Tobacco Company; RJR, RJ Reynolds; TMD, Trademark Diversification

*Japan Tobacco Inc acquired the international tobacco business from RJR Nabisco Holdings Corp in 1999.

Malaysia, lack of accessibility to documents from the Guildford depository is a limitation.¹⁵

In 1970 BAT studied world trends in marketing restrictions and identified nine stages of how markets evolve from total freedom to advertise to complete bans on advertising¹⁶:

- Stage 1: The industry imposes self regulatory codes on content and appeal. It eliminates direct copy and media appeal to the youth market
- Stage 2: TV advertising is restricted with industry agreement to programmes of adult appeal and late evening viewing
- Stage 3: Governments or other bodies undertake anti-smoking advertising campaign
- Stage 4: TV and radio advertising banned by government legislation
- Stage 5: Health warning clause on packaging proposed (and legislated)
- Stage 6: Government imposed health warning clause on all promotional material
- Stage 7: Functional appeals and product benefits banned from all copy expression, limiting advertising basically to pack, name and price presentations
- Stage 8: All mass media advertising banned, leaving only “below the line” activity, but merchandising incentives, such as coupons, etc, banned
- Stage 9: Total ban effective on all form of promotion.

Malaysia has been through the various stages, not strictly in the order indicated, and today remains stalled at stage 8. This paper reviews tobacco industry efforts to thwart government tobacco control of tobacco advertising and health warnings in Malaysia, against the stages described above. When they needed to meet the government over common concerns, the individual companies banded together as they did elsewhere in the world and presented a united front.

RESULTS

The Malaysian Tobacco Company (MTC), BAT’s local subsidiary, Rothmans of Pall Mall Malaysia, RJ Reynolds (RJR) Malaysia, and Philip Morris International controlled the bulk of the Malaysian cigarette market for many years. From the 1970s their projections for the local market were positive: “...with growth exceeding population growth and every sign being that the future will bring continued expansion.”¹⁷ In 1982 the combined market share of these four companies was 98.8% and total consumption of cigarettes had increased by 23% from 13.5 billion in 1978 to 16.6 billion in 1982.¹⁸ RJR was optimistic that its business was also set to grow since there are more new smokers than quitters but was wary of the potential for anti-smoking measures to jeopardise these prospects.¹⁹

Self regulation in the place of advertisement ban and warning labels

In January 1971, the Singapore government imposed a complete ban on all forms of cigarette advertising, thereby “short circuiting” the nine stages outlined by BAT.¹⁶ Singapore then made overtures to the Malaysian government to also ban cigarette advertisements over Radio Television Malaysia, which could be received by Singaporeans. The Malaysian government brought together the several relevant ministries, health professionals, and the tobacco industry to discuss a proposal to ban tobacco advertising and smoking in public places. The industry asked for “...additional time to study the issue before making alternate proposals”.²⁰ It then rejected the proposition for an advertising ban, instead

recommending voluntary restrictions. The Ministry of Information later met with the industry and discussed a proposal to screen cigarette advertisements after 8 pm and to put warning labels on television advertisements.²⁰

Industry accepts late screening of advertisements

The industry rejected the health warnings on advertisements but accepted the post 8 pm screening restriction. The MTC later reported to Brown & Williamson International Tobacco that this measure had negligible net effect and although it siphoned off one hour of prime time “...we have consolidated by more intensive buying in the balance of it. Moreover ‘live’ telecasts sponsorship are exempt from this ruling.”²¹ The industry thus had successfully fended off a ban on advertising and agreed to a request that would not affect its overall advertising efforts.

In January 1975, the Malaysian Ministry of Information resurrected the government’s 1971 initiative to put health warnings on cigarette advertisements, which it had previously failed to implement. The industry record shows the “Cigarette Manufacturers argued strongly against the warning clause” which resulted in the proposal being shelved within three months.²⁰ The Information Ministry also shelved a TV campaign informing the public about the dangers of smoking.²⁰

Industry delays implementation of health warning and anti-smoking campaign

In February 1976, the Ministry of Health obtained Cabinet approval to conduct anti-smoking campaigns in schools, to require a pack health warning, and disclose tar and nicotine delivery levels on packs. The industry responded by engaging the government in more protracted meetings while preparing its own recommendations on the form any labelling should take. In a joint industry recommendation submitted in June 1976 it collectively presented arguments why health warnings should not be indiscriminately used: “...the frequent use of warning labels, where the warning does not appear to be warranted, would serve to dilute the effectiveness of legitimate warnings on products of known danger.”²² Consistent with the international industry’s position at the time, its reasoning implied the dangers of smoking remained unknown although in both the USA (from 1967) and the UK (from 1971), the parent companies had been obliged to carry health warnings on packs.

The industry recommended tar bands in the place of specific readings, maintaining they would be more meaningful because “...they are better understood by the Malaysian consumer and, as regards errors, are closer to reality than figures. The industry proposed that all cigarette brands should be grouped under 5 descriptive ‘tar’ bands, e.g. low, medium-low, medium, medium-high, high.”²² However, in private, the industry knew Malaysian smokers had very little understanding or awareness about “tar”. A consumer survey in 1977 on Malaysians showed: “Awareness of specific substances in cigarettes is relatively low. ...‘Tar’ is even less well known with less than 10% awareness... However, even those who claim some awareness of nicotine and/or ‘tar’ have little idea what it is.”¹⁷ The industry’s recommendation that tar bands were “better understood” by consumers was thus a vacuous claim, contradicted by its own data.

The industry sought to ridicule proposals for tobacco pack warnings by drawing analogies between cigarettes and other dangerous products that carried no warnings. They also implied that health warnings risked creating a “cry wolf” situation: “Warnings are customarily not applied to products which may or may not have long range peripheral or detrimental side-effects, for example, eggs, butter or other high-cholesterol food products: sugars, beer or wine or even

such 'potentially dangerous' products such as cars, scooters and knives."²² The industry argued that mandating warning labels constituted a form of capricious punishment for the industry, would penalise a legal product, and have no positive value to anyone.

Advertisement ban is deflected with voluntary guidelines

Restrictions on advertising were raised again in May 1977, and a meeting was convened between the Deputy Prime Minister, the Minister of Trade and Industry, together with representatives of the tobacco industry, advertising agencies, newspapers, production companies, and Radio Television Malaysia.²⁰ However, the discussion centred on voluntary regulations and over the next five years the industry succeeded in keeping the debate confined to voluntary guidelines as a volley of government circular letters, discussions, counter proposals, postponements of deadlines, and compliance ensued. One year later an MTC advertising department executive's report on advertising restrictions noted: "Talk of possible advertising restrictions had been in the air for many years and the industry at large had been fairly successful in fending them off in dialogues with the Ministry of Information."²¹ The original Singaporean action of a complete ban on all tobacco advertisements, first raised in 1971, never resurfaced and the industry was happy to engage the Malaysian government in discussions of a mire of highly subjective and ineffective voluntary guidelines which it agreed to in the place of regulations. As the marketing department of the MTC noted: "In short, beating the guidelines is not through logical arguments but successful presentations...Clever use of full stops and commas could give the consumers a different meaning as that approved by the Censor Board."²¹ The industry viewed the guidelines as an "...innocuous voluntary industry agreement on advertising covering such things as the age of models and children's viewing time on television."²³

Government health warning on cigarette packs implemented

Health warnings on cigarette packs commenced on 1 October 1977 for locally manufactured products and January 1978 for imports, the dates originally proposed by the industry. Cabinet had initially accepted the industry recommended warning "smoking can endanger health", but later changed it after a recommendation from the Malaysian Medical Association to drop the word "can" from the warning. Upon announcement of the change in the wording the industry requested a later date of implementation as it "...possesses up 4-6 months' stock of cigarettes packs. If the enforcement date should commence in July then the cigarette manufacturers would incur a heavy loss, estimated at \$540,000 for MTC and \$840,000 for Rothmans as the cigarette packs had to be written-off."²⁴ The industry had not agreed to anything that it was not already required to do elsewhere. However, it was successful in pushing back the implementation date as well as in making the health warning weak and general: "Smoking endangers health" attributed to the government and not the industry. The other Cabinet decision for anti-smoking campaigns to be conducted in schools never materialised.

The outcome of the health warning was consistent with BAT's global policy as described in a 1978 document which stressed the need for health warnings to be attributed to government or another official body.^{25 26} BAT stressed that warnings must not state smoking caused any specific disease. "If Governments suggest wording implying or stating smoking causes (certain named) diseases, Companies must strenuously resist with all means at their disposal..."²⁵ BAT

also recommended their companies resist the introduction of league tables for nicotine and tar because this could imply health claims. However, "Where imposition of maximum tar and nicotine yields is likely this should be resisted, but if the imposition of such limits becomes inevitable attempts should be made to get levels fixed sufficiently high to cover the majority of brands. It should be borne in mind that once maximum levels are established, they will almost inevitably be reduced by Governments in subsequent years."²⁵ On the declaration of constituents its policy was to "resist for as long as possible any requirement to put figures for the yields of smoke constituents or tar groups on packs or in our advertising, but such requirements are preferable to restrictions on advertising."²⁵

Pack only advertising with miniscule health warnings

The outcome of the May 1977 attempts by the government to restrict tobacco advertising resulted in advertising being limited to the display of packs and the inclusion of a health warning. However, the government was dissatisfied with compliance and advised all cigarette companies to conform strictly to the media restriction guidelines and that "...the health warning must be increased so that it is clear and legible."²⁰ However in the years that followed, the warning on cigarette advertisements remained minute, being only twice the size of the 6 mm used in warning on packs.²⁷ This miniscule size warning when printed on full page advertisements in broadsheet newspapers or gigantic billboards became effectively unreadable. The tobacco industry continued to remain vigilant in warding off government measures. In a report detailing how it fought off various government restrictions presented at an International Committee on Smoking Issues/National Manufacturers Association meeting in 1980, RJR said, "The battle is by no means over and the cigarette industry in Malaysia is far from being complacent."²⁰

Industry deflects government advertisement ban with "inside" help

In January 1982 the Malaysian government took another step forward in tobacco control and announced a ban on the direct advertising of imported brands over Radio Television Malaysia and pushed back the advertising time for locally manufactured brands till after 10 pm. This was to come into force on 15 March 1982 along with a set of new guidelines. The industry launched an immediate round of intense lobbying to cancel this decision, chronicling its activities on a week-by-week basis. As before, the strategy was to identify influential government officials, establish rapport with them, and "to register [the] Industry's regret and dissatisfaction over: a) the short notice given to ban commercials on imported brands over TV and Radio, and b) ...to appeal against the restriction with a view to having the restrictions withdrawn".²⁸ The industry through the Confederation of Malaysian Tobacco Manufacturers (CMTM) also re-examined the earlier provision requiring health warnings on advertisements and concluded that the size of the warning, "smoking is injurious to health", was "...extremely injurious to the interest of the industry".²⁸

This time, the industry took its influence with the government to new heights involving direct interference in government procedure. With less than three weeks to go, the executive director of the CMTM met with "...a very senior contact person within the Deputy Prime Minister's office to establish the status"²⁸ of the document that would affect their business, namely the Guidelines on Cigarette Advertising. The industry used its highly placed contact inside to retrieve the confidential government document. "The paper which had already reached the Deputy Prime

Minister's desk was retrieved to enable [the] Industry to provide its comments and amendments where necessary. Industry was given one week to come back with a response paper."²⁸

This inside help proved to be crucial to the industry because a pre-scheduled Cabinet Committee on Drugs meeting where the document was to have been discussed on 3 March was effectively postponed "...until Industry's inputs have been submitted".²⁸ The Cabinet Committee was to have discussed whether to recommend a total ban on all cigarette advertisements or a tightening of the existing Guidelines on Cigarette Advertising. One week later the executive director of CMTM hand delivered the industry's counter-proposal to the contact person in the Deputy Prime Minister's office.

Over the next four months the industry stepped up its direct lobbying of top level officials in several ministries, pushing for support for its counter-proposal and providing arguments against either a complete ban or a more punitive restriction on cigarettes. The CMTM received assurances the proposal would receive support from the Ministries of Trade and Industry, Primary Industries, and Agriculture.²⁸

This type of formulaic lobbying proved effective and was applied to other ministries and departments ending in the ministries either objecting outright to the ban or taking a neutral position. The industry was successful in what it had set out to accomplish—to revoke the implementation of a government decision to ban cigarette advertisements, which was to have been implemented in March 1982. It had taken the industry just five months to defeat the original decision.

Cigarette advertisements banned on television and radio

The cigarette advertising ban issue resurfaced in August 1982 through a General Circular No: 12, 1982: Cigarette Advertising ban and Anti Smoking Campaign, issued by the Chief Secretary to the government. This circular included a proposed ban on cigarette advertisements over television and radio. By now having established powerful rapport with key government officials, the industry went to two Cabinet Ministers, one Deputy Minister, one Secretary General, two Deputy Secretaries, and one Deputy Director General to appeal against the circular. This time it was invited to submit its viewpoints and recommendations about the role of pressure groups such as the Consumers Association of Penang and the Federation of Malaysian Consumer Associations, its rationale for proposing a "one stop body" for handling the smoking and health issue, its position on cigarette advertising restrictions, and to offer counter-suggestions. However, less than a month later the industry learnt "...through highly placed sources that heads of departments have been 'orally' informed to be 'flexible' on the implementation of General Circular No 12".²⁸ The ban on direct cigarette advertisements over television and radio was, nonetheless, implemented by the government.

Trademark diversification to circumvent advertisement ban

With increasing restrictions on direct advertising around the world, the tobacco industry resorted to unconventional and innovative marketing techniques to promote cigarettes. BAT acknowledged the importance of parallel communications for markets where traditional media was unavailable. "In a global environment of ever increasing restriction in the availability of traditional advertising media, parallel communications devices such as sponsorships and trademark diversifications now represent the only major alternatives for tobacco marketers in a growing list of markets."²⁹ As detailed in a companion paper in this supplement³⁰ after the 1982 ban on direct cigarette advertisements on radio and

television in Malaysia, the companies began advertising tobacco brand names for travel, fashion, accessories, and music. They found a legal way to circumvent the ban by setting up bona fide companies for non-tobacco products. The companies then used these small companies to sponsor multi-million dollar sports sponsorship activities which enabled them to advertise extensively in all media. In this way they enjoyed the freedom to advertise their brand name adequately without restrictions and without health warnings since these were not technically cigarette advertisements. These indirect advertisements closely resembled the advertisements for cigarettes in concept, slogan, and colour theme (fig 1).

The companies were clear about the communication value of the trademark diversification (TMD) advertising as explained by BAT: "...all TMD advertising should result in a clear consumer association of the TMD with the core brand."²⁹

Stages 8 and 9: thwarting health ministry's efforts to ban all forms of tobacco advertisements

In September 1992, the Malaysian tobacco industry planned its most aggressive counter attack on what it called threats to its marketing freedoms. In July 1992 the Ministry of Health announced that it was drawing up the Control of Tobacco Products Regulations that would include a prohibition on all direct and indirect advertisements. The Deputy Health Minister announced that despite facing much pressure against the move, the ministry was determined to enforce the regulations by the end of that year.³¹ It would also be the country's first comprehensive piece of tobacco control legislation.

News discussion about the pending regulations in the press increased. For example, in August 1992, the Deputy Health Minister disclosed the travel businesses carried out by two travel agencies associated with the tobacco industry were actually non-existent.³² The Health Minister followed in the same vein saying, "Malaysia will be better off when tobacco companies are forced to close down as a result of the campaign to reduce smoking".³³

The CMTM drafted a business plan where it noted that the rapid change in the political climate on smoking was alarming. It blamed international organisations such as the World Health Organization and the International

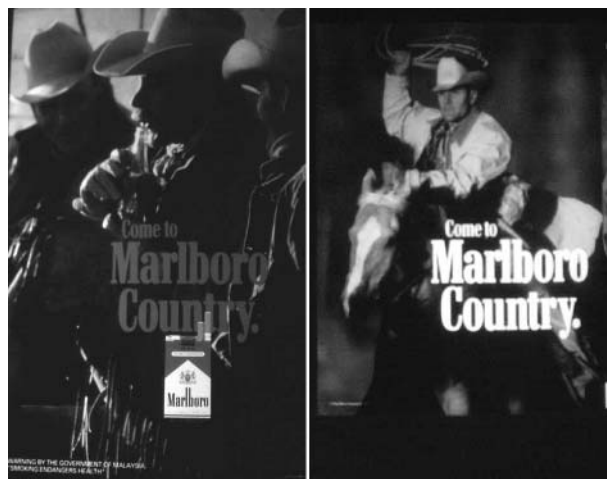


Figure 1 Advertisements illustrating the subtle differences between direct and indirect advertising. Left panel: Marlboro print advertisement with mandatory health warning. Right panel: A magazine indirect Marlboro advertisement without the cigarette pack and health warning.

Organization of Consumers Union and local citizens' organisations for influencing politicians to take a stronger stance on smoking. It identified nine threats³⁴ to its business:

- Brand advertising ban
- TMD advertising ban
- Sponsorship advertising ban
- Outdoor advertising ban
- Larger, stronger health warnings
- Product constituent labelling
- Ban on smoking in air conditioned public places
- Ban on sales to minors
- An additional 5% tagged tax.

To address these threats, a business plan "Project Muafakat" (consensus)³⁴ was proposed with the main objective being "To maintain the status-quo with regards to industry marketing freedoms".³⁴ In calling for "a co-ordinated plan of action to counter the threats"³⁴ it proposed eight strategies including exploring all political avenues of opportunity, mobilising industry allies and third parties, and developing appropriate political strategies. It aimed: "To prevent the passage of regulation by effective contact with key politicians and bureaucrats."³⁴ The plan selected political targets and these included Ministers, the Prime Minister, Deputy Prime Minister and party hierarchy. It set out to "...explore feasibility of appropriate political support at party or government project level".³⁴ Another strategy was to sponsor community activities "known to be supported or participated in by key politicians".³⁴ Unlike the system in the USA which requires declaration of contributions made to political parties, no such mechanism exists in Malaysia.

There is some evidence that aspects of Project Muafakat were carried out. One strategy proposed the adoption of codes of practice for cigarette marketing, TMD advertising, sponsorship, and sampling.³⁴ In December 1992 the members of CMTM, namely Rothmans of Pall Mall (M), Malaysian Tobacco Company, RJ Reynolds (M), and Godfrey Phillips (M) signed an agreement among themselves to adopt a "Code for the Marketing of Cigarettes".³⁵

The industry also distributed its publication, *The tobacco debate: towards an effective approach for Malaysia*, aimed at opposing the Health Ministry's efforts to ban cigarette advertisements.³⁶

Evidence of the influence of Project Muafakat is reflected in the final outcome of the Control of Tobacco Products Regulations, passed in May 1993 and gazetted in 1994. The regulations addressed bans on advertising, a smoking ban in specified public places, ban on sale of cigarettes to minors, a ban on vending machines, and placing health warning and nicotine and tar content on cigarette packs. The Health Ministry's original intention to ban indirect advertising such as the trademark advertising and sponsorship activities did not materialise. The regulations were devoid of reference to the advertising of tobacco brand names on non-tobacco products and sponsorship activities, thereby paving the way for indirect cigarette advertising to continue as before. The tobacco industry had thus averted three out of the nine threats to its marketing freedoms identified in Project Muafakat.³⁴

Smoking in air conditioned restaurants was not banned. Instead the law required smoking and non-smoking sections, consistent with global tobacco industry policy. Health warnings were to be placed on the side of the cigarette packs, making them less conspicuous than the original proposal to have them on the front. This was consistent with BAT's marketing intelligence department proposal: "Health warning: clever positioning and use of colour (discreet gold)

have ensured minimum impact on the overall design and minimum legibility to the smoker."³⁷ There was no 5% tax earmarked for tobacco control programmes that the industry had feared.

The industry failed to avert product constituent labelling and ban on sales to minors. However, the maximum levels of tar set at 20 mg and 1.5 mg nicotine were levels already maintained in Malaysia and which by international standards were extraordinarily high. This was consistent with the industry's aim to maintain different levels for different countries. BAT, for example, in its 1970 guidelines for marketing tobacco products in the context of increasing restrictions on advertising stated: "...in Malaysia a cigarette considered 'low' in TPM and nicotine would deliver less than 25.0 mg TPM and 1.6 mg nicotine whereas in the United States 'low' deliveries would need to be less than 18.0 mg TPM and 1.0 mg nicotine."¹⁶

It was likely that the industry regarded the ban on sales to minors as inconsequential, providing opportunity to posture about its responsible attitude to underage smoking. In fact Project Muafakat proposed to "...develop a children and smoking program for GOM [Government of Malaysia] use. Link with a law banning sale to under 18 year olds."³⁴ Tobacco industry support for youth access prevention has gained positive publicity for the industry and helped deflect efforts to impose legal restrictions on marketing access.³⁸ The public relations firm Hill and Knowlton recommended to Philip Morris in 1992, "[if Philip Morris took] a more progressive position on tobacco, it would enable the company to move onto a higher moral playing field, to neutralize the tobacco issue and to focus attention on other, more appealing products".³⁹ In 1995 a Philip Morris executive stated: "If we can frame proactive legislation or other kinds of action on the Youth Access issue...we will be protecting our industry on into the future."⁴⁰

In summary, the 1993 Regulations contained nothing that significantly threatened the industry. The industry had again demonstrated that it could successfully defeat stringent legislation in Malaysia. By 1981 Philip Morris International had developed a template called "Model for responding to smoking and health opposition" which provided the preferred policy and responses for the company's affiliates to employ on threats to its business by government intervention. The template appears to have been prepared specifically for developing countries and uses expressions such as "early warning system", "rebutt [sic] any chosen attack", "fight restrictions ...as vigorously as possible", and "combat government intervention".⁴¹ This template became part of a training manual used in a training programme by Philip Morris Asia, Inc in May 1981, held in Kuala Lumpur. Government officials who introduce tobacco control legislations were seen as "Ambitious politicians, medical authorities, government officials will seek to make names for themselves by introducing legislation, publishing articles, etc in detriment to the tobacco industry interests."⁴¹

Government support for tobacco

Outside the health context, the government's support for tobacco enabled the companies to flourish. Besides operating in a healthy economy, tobacco companies in Malaysia had another advantage few countries in Asia could offer: political stability, both in terms of the same government as well as the same main political parties in the ruling coalition who had governed since 1957.⁴² There is little fear of nationalisation or constraints on the repatriation of profits.⁴³ Foreign investors have not had to contend with unpredictable economic exigencies which often exist in developing countries.⁴⁴

Importantly, the industry in Malaysia could also rely on a lack of public criticism of its activities or of weak government

tobacco controls. Views opposing the governing political party UMNO† or its pro-business policies are kept in check in Malaysia through various legislative mechanisms. Public debate is controlled through government domination of a docile media, owned largely by politicians and politically influential businessmen.⁴⁵ The use of the Sedition Act, Printing Presses and Publishing Act 1948 (Amendments 1988), and the Official Secrets Act have been effective in curbing press freedom. Occasionally the government has used the Internal Security Act 1960 (detention without trial) originally enacted to curb Communism, to limit dissent.⁴⁶

The Malaysian public is socialised against making public criticism in a general climate of intolerant official attitudes towards opposition, dissent and independent criticism where public interest groups, non-governmental organizations, and trade unions are largely ignored and regularly discredited.⁴⁵ Aliran, a human rights group in Malaysia, notes authorities and political figures use the "...Sedition Act to restrict, stifle and silence public debate and intellectual endeavor. We have seen enough of the use of libel suits by corporate figures to punish and intimidate public commentary on economic, financial and corporate developments."⁴⁷

The preoccupation of Asian governments, including Malaysia's, to fulfill basic needs of its populace, to provide sufficient employment opportunities for its rising populations, and to improve economic development worked to the advantage of tobacco transnationals. At its Asian conference on marketing a Philip Morris executive in 1994 noted, "Governments here are focused on growing their economies and improving living conditions. The press and politicians are generally not on a crusade of political correctness and legal systems do not promote whimsical litigation". In making a comparison between the anti-tobacco movement in the USA with that in Asia, the executive observed, "In the US – the task of slowing down the momentum of the anti smoking groups may seem impossible....But – need I say - Asia is not the United States! I feel that here we do have a very good chance to fight for our marketing freedoms and promote the concept of 'accommodation'.⁴⁸

The Malaysian Health Ministry was often alone in addressing tobacco related health problems. It had to work within larger government policies such as poverty alleviation, promotion of *bumiputera* (indigenous people) business participation and the encouragement of foreign investments which saw several other ministries promote tobacco production, promotion and trade. Tobacco farmers are predominantly Malay *bumiputera* from the predominantly Malay states of Kelantan, Terengganu, Perlis, and Kedah.⁴⁹ The majority of the poor (73.6%) live in rural areas including paddy farmers of whom 88.1% are poor.⁵⁰ Tobacco cultivation was seen as an activity that assisted in alleviating poverty among Malay paddy farmers. Tobacco control initiatives were perceived as adversely affecting poor Malay farmers.

The Malaysian government remains an active investor in and promoter of tobacco. It has direct financial interests through ownership of shares in the tobacco industry, protects local tobacco through high import tariffs, and safeguards the future of tobacco through a national tobacco board and benefits from tobacco advertising revenue from the government owned television and radio stations.⁵¹ As well as large scale *bumiputera* participation in the cultivation of tobacco, *bumiputera* individuals are prominent in the ownership of tobacco corporations. As Barraclough concluded, "The Malaysian tobacco industry represents an example, par excellence, of the close relationship of international capital

† UMNO: United Malay National Organisation is the main Malay party in the ruling coalition government, which comprises of 13 political parties, formed mainly along ethnic lines.

What this paper adds

Tobacco companies' efforts to influence public policy have been documented in several countries. This paper is the first to illustrate through internal documents how an Asian country went through the different stages identified by BAT on marketing, evolving from total freedom to advertise to complete bans on advertising. Many governments consult with the tobacco industry when drawing up tobacco control measures. This paper illustrates Malaysia's experience over three decades how such consultation can be used to thwart tobacco control and result in compromised measures.

and local elites which has characterised the wider Malaysian economy.⁵¹

In line with government policy to encourage foreign investment, BAT, Philip Morris, and RJR established their subsidiaries and set up production facilities in Malaysia. The US and Foreign Commercial Service and US Department of State noted: "The Government of Malaysia, for its part, is working to attract companies to establish offices in Malaysia, both to deal with local market and the regional market."⁵² The manufacturers are allowed to import duty-free tobacco for manufacturing cigarettes meant for export. In 1995, when Philip Morris opened its first Asian tobacco processing plant in Seremban, Malaysia, the Minister of Primary Industries who officiated at the ceremony "...welcomed investments by tobacco companies as a contribution towards making Malaysia a leading exporter of tobacco". This endorsement sealed Philip Morris International's business locally in "...the company's confidence in the Malaysian government's positive attitude towards foreign investors".⁵³

DISCUSSION

It is clear from Malaysia's experience in dealing with the tobacco companies the industry will fight any regulation that in any way threatens its business, just as it had done elsewhere in the world.⁷ The industry undermined the Health Ministry's efforts to implement tobacco control legislation and thwarted and delayed governmental initiatives to control tobacco consumption. However, this has not stopped the Ministry of Health from reviewing and seeking to amend the tobacco control regulations from time to time. Consumer organisations and health groups have continued to press for tighter regulations.

The Malaysian government cannot be absolved of its role in promoting and participating actively in the tobacco business and the lack of political will to implement strong tobacco control measures. In this respect the difference between Singapore and Malaysia is stark. While being close neighbours, previously one country and sharing many similarities, both countries differ notably in terms of political will to promote tobacco control policies. Singapore has shown its seriousness to curb smoking and prohibited all forms of tobacco advertising as early as 1971. While Singapore short circuited BAT's nine stages, Malaysia's progress took over 30 years when in August 2002, the government announced restrictions on indirect advertising of tobacco brand names effective from January 2003⁵⁴ but till mid 2004 this has not translated into law. The industry's fight against health warnings and advertising bans in Malaysia is consistent with its global strategies.⁸ Its considerable success in Malaysia was showcased globally.

The industry needed as free an environment as possible to expand its market both in Malaysia and Asia as a whole. BAT in its projections for future business environment in 1995 and beyond, noted the potential for profitable growth "...in the

opening and fast developing markets of the Far East. Competition is very fierce among the international competitors to position themselves well in these markets."⁵⁵ BAT is clear in its response to regulations and restrictions confronting it. "The issues for BAT are how it can challenge disinformation, soften or reverse regulations and restrictions, and maximise its profits within the constraints that remain."⁵⁵ It is evident from Malaysia's experience that consulting with the tobacco industry will result in compromised tobacco control measures.

The industry was aware that the greater the regulation on its business, the lesser its credibility in the eyes of the public. In April 1982 BAT had acknowledged: "Industry credibility remains the key issue facing us over the next decade and beyond and I am convinced that our freedoms to do business will depend upon the success with which the industry tackles this credibility issue...the level of restrictions on the industry in a particular country reflects the state of our credibility."⁵⁶ BAT also knew the low level of awareness of dangers of smoking in developing countries could be exploited to boost its credibility levels. "If you look at the rapidly developing parts of the world, BAT's total credibility is often high, particularly where the health issues have scarcely begun to emerge and where our social as well as our economic contribution is sharply defined and therefore recognised."⁵⁶

After 30 years of dialogue with the tobacco industry before implementing tobacco control measures the Malaysian government is in a better position to know guidelines have not worked to reduce tobacco consumption. The revelations from internal documents of the tobacco industry provide additional proof as to why the tobacco industry must be regulated by legislation.

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REFERENCES

- New Straits Times**. 58 billion cigarettes sold locally over three years. *New Straits Times* 25 Sep, 2003:7.
- Shafey O**, Dolwick S, Guindon GE, eds. *Tobacco control country profiles*, 2nd ed. World Health Organization, International Union Against Cancer. Atlanta, Georgia: The American Cancer Society, Inc, 2003:252-3.
- World Health Organization**. *Tobacco or health: a global status report*. Geneva: World Health Organization, 1997:456-7.
- Philip Morris Asia Inc**. Research overview of Singapore, Malaysia, Thailand. Jan 1991. Philip Morris. Bates No. 2504028621A/8726. <http://legacy.library.ucsf.edu/tid/idu19e00>.
- Mahood G**. Warnings that tell the truth: breaking new ground in Canada. *Tobacco Control* 1999;8:356-61.
- Prabhat J**, Chaloupka FJ. *Curbing the epidemic: governments and the economics of tobacco control*. Washington, DC: The World Bank, 1999.
- Neuman M**, Bitton A, Glantz S. Tobacco industry strategies for influencing European Community advertising legislation. *Lancet* 2002;359:1323-30.
- Chapman S**, Carter SM. "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. *Tobacco Control* 2003;12(suppl III):iii13-22.
- Aftab M**, Kolben D, Lurie P. International cigarette labelling practices. *Tobacco Control* 1999;8:368-72.
- Master Settlement Agreement websites**. Philip Morris (<http://www.pmdocs.com>), RJ Reynolds (<http://www.rjrtdocs.com>), Lorillard (<http://www.lorillarddocs.com>), The Tobacco Institute (<http://www.tobaccoinstitute.com>), The Council for Tobacco Research (<http://www.ctr-usa.org>), Brown & Williamson (<http://www.bwdocs.com>) and the American Tobacco Company (<http://www.batdocs.com>).
- Tobacco Documents Online**. <http://tobaccodocuments.org>.
- Legacy Tobacco Documents Library**. University of California, San Francisco. <http://legacy.library.ucsf.edu>.
- British Columbia's Tobacco Industry Documents**. Government of British Columbia, Ministry of Health Services. http://www.moh.hnet.bc.ca/cgi-bin/guildford_search.cgi.
- National Clearinghouse on Tobacco and Health Program Guildford documents collection**. Canadian Council for Tobacco Control. <http://www.nctc.ca/Guildford.nsf>.
- Lee K**, Gilmore AB, Collin J. Looking inside the tobacco industry: revealing insights from the Guildford Depository. *Addiction* 2004;99:394-7.
- British American Tobacco**. Some guidelines for marketing tobacco products in the context of increasing restrictions on advertising. 13 Dec 1970. British American Tobacco. Bates No. 406114596/4606. <http://www.library.ucsf.edu/tobacco/batco/html/2600/2680/> [Accessed 27 May 2002].
- Brown & Williamson**. Malaysia. [1977]. Brown & Williamson. Bates No. 464563387/3393. <http://legacy.library.ucsf.edu/tid/svb40f00>.
- Philip Morris International**. [Fact book]. Oct 1983. Philip Morris. Bates No. 2500085008/5060. <http://legacy.library.ucsf.edu/tid/mhr02a00>.
- International Committee on Smoking Issues Working Party on Social Acceptability of Smoking**. Model phase 1: beliefs, attitudes and opinions change. [1977]. R.J. Reynolds. Bates No. 503668705/8723. <http://legacy.library.ucsf.edu/tid/mop85d00>.
- Bador MA**, Zaman MG. Advertising restrictions in Malaysia: ICOSI Workshop November 11-13, 1980, Frankfurt, Germany. 12 Nov 1980. R.J. Reynolds. Bates No. 502122437/2447. <http://legacy.library.ucsf.edu/tid/lpb29d00>.
- Wahab A**. Advertising restrictions. 1 Aug 1978. Brown & Williamson. Bates No. 621054826/4837. <http://legacy.library.ucsf.edu/tid/rtp21f00>.
- Malayan Tobacco Company Berhad**, Rothmans of Pall Mall (Malaysia) Berhad, R. J. Reynolds Tobacco (M) Sdn. Berhad, et al. Malaysian tobacco industry's views and recommendations on mandatory pack warning and 'tar' publications. 14 Jun 1976. R.J. Reynolds. Bates No. 504869734/9747. <http://legacy.library.ucsf.edu/tid/hjf55d00>.
- British American Tobacco**. Marketing Conference on Communication Restrictions and New Opportunities in Marketing, Jesterburg, 13-17 May 1979: main proceedings. 17 May 1979. Brown & Williamson. Bates No. 670124641/4683. <http://legacy.library.ucsf.edu/tid/qyw79e00>.
- Witt S**. Minutes of meeting re: Implementation of cabinet decision on warning clause on danger to health caused by smoking and indication of tar and nicotine content: [attachment to memo from S.B. Witt to H.G. Roemer]. 31 May 1977. R.J. Reynolds. Bates No. 500539763/9765. <http://legacy.library.ucsf.edu/tid/gse79d00>.
- British American Tobacco**. B.A.T. Board Strategies - Smoking and Health: the public and the authorities strategies and constraints. Nov 1978. British American Tobacco. Bates No. 201766657/6664. http://tobacco.health.usyd.edu.au/tids/BAT201766657_6664 [Accessed 25 Nov 2002].
- Ely R**. Warning labels - USA [Letter to all No. 1s of operating companies]. 20 Jun 1984. British American Tobacco. Bates No. 100145188. <http://www.moh.hnet.bc.ca/guildford/pdf/125/00012608.pdf> [Accessed 9 Apr 2002].
- INFOTAB**. Smoking issues status book: Malaysia. May 1984. R.J. Reynolds. Bates No.502110808/0811. <http://legacy.library.ucsf.edu/tid/jsc29d00>.
- Council of Malaysian Tobacco Manufacturers**. Synopsis of developments in the areas of "Smoking and Health" in Malaysia between November 1981 - October 1982: related activities undertaken by the Council of Malaysian Tobacco Manufacturers: a report to INFOTAB NMA Workshop, Brussels - October 18-20, 1982. 18 Oct 1982. R.J. Reynolds. Bates No. 502121925/1944. <http://legacy.library.ucsf.edu/tid/tmb29d00>.
- British American Tobacco**. Trademark diversification. 14 May 1991. British American Tobacco. Bates No. 502594945/4952. http://tobacco.health.usyd.edu.au/tids/BAT502594945_4952 [Accessed 25 Nov 2002].
- Assunta M**, Chapman S. The tobacco industry's accounts of refining indirect tobacco advertising in Malaysia. *Tobacco Control* 2004;13(suppl II):ii63-70.
- Business Times**. Tobacco rules to be enforced this year. *Business Times (Kuala Lumpur)* 29 Jul, 1992:1.
- James A**. False holiday claims. *The New Sunday Times (Kuala Lumpur)* 2 Aug 1992.
- Business Times (Kuala Lumpur)**. Better off without tobacco firms, says Lee. *Business Times (Kuala Lumpur)* 15 Aug 1992.
- Confederation of Malaysian Tobacco Mfg**. Project "Muafakat" business plan. 1 Sep 1992. R.J. Reynolds. Bates No. 512546460/6467. <http://legacy.library.ucsf.edu/tid/apl33d00>.
- Confederation of Malaysian Tobacco Manufacturers**. [Agreement between Rothmans of Pall Mall Bhd and Malaysian Tobacco Company Bhd and R.J. Reynolds Bhd and Godfrey Philips Sdn Bhd]. 1992. Philip Morris. Bates No. 2065080883/0885. <http://legacy.library.ucsf.edu/tid/ncp87d00>.
- The New Straits Times (Kuala Lumpur)**. Fag ads: Industry comes out with booklet. *The New Straits Times (Kuala Lumpur)* 12 Nov 1992.
- Bingham P**, Holroyd K. How Marlboro led the pack. Mar 1994. British American Tobacco. Bates No. 301724401/4423. http://tobacco.health.usyd.edu.au/tids/BAT301724401_4423 [Accessed 1 Aug 2002].
- Action on Smoking**, Health U. K. The Cancer Research Campaign UK. *Danger! PR in the playground, tobacco industry initiatives on youth smoking*. London: ASH, 2000:34.
- Hill and Knowlton Inc**. Philip Morris Corporate Affairs strategic plan for 1993. 3 Dec 1992. Philip Morris. Bates No. 2023586677/6725. <http://legacy.library.ucsf.edu/tid/oqv67e00>.
- Philip Morris**. JIM to PM invitational importance of youth issues. 10 Feb 1995. Philip Morris. Bates No. 2044046017/6022. <http://legacy.library.ucsf.edu/tid/phy06e00>.

- 41 **Philip Morris Asia Inc.** Philip Morris International Corporate Affairs presentation: Philip Morris Asia, Inc. revised forecast 1981, Kuala Lumpur, Malaysia 6–7 May 1981. 6 May 1981. Philip Morris. Bates No. 2025010871/0928. <http://legacy.library.ucsf.edu/tid/ljg24e00>.
- 42 **Philip Morris International.** Malaysia 1994–1996: three year plan. 1994. Philip Morris. Bates No. 2504033349/3368. <http://legacy.library.ucsf.edu/tid/apq19e00>.
- 43 **Idriss A.** *Malaysia's new economic policy*. Petaling Jaya: Pelanduk Publications (M) Sdn Bhd, 1990:212.
- 44 **Biddle J, Milor V.** *Consultative mechanisms and economic governance in Malaysia*. World Bank, 1999. (World Bank, Private Sector Development Department occasional paper; no. 38). <http://www.worldbank.org/privatesector/ic/html/public-private.htm> [Accessed 23 May 2002].
- 45 **Gomez ET, Jomo KS.** *Malaysia's political economy: politics, patronage and profits*. Cambridge, England: Cambridge University Press, 1997.
- 46 **Haggard S, Low L.** *The political economy of Malaysian capital controls*. University of California, San Diego, Graduate School of International Relations and Pacific Studies, 1998. <http://www-irps.ucsd.edu/faculty/shaggard/Malaysia.13a.doc.html> [Accessed 27 Nov 2002].
- 47 **Aliran.** *Intellectual freedom and the authority of truth*. Penang: Aliran, 2002. <http://www.malaysia.net/aliran/ms/2002/0207.html> [Accessed 1 Jun 2002].
- 48 **Hulit M.** Marketing issues corporate affairs conference - Manila. 27 May 1994. Philip Morris. Bates No. 2504015017/5042. <http://legacy.library.ucsf.edu/tid/jga42e00>.
- 49 **Ministry of Primary Industries Malaysia.** *Malaysia's primary commodities: tobacco, 1999*. <http://www.kpu.gov.my/commodity/tobacco1.htm> [Accessed 27 Nov 2002].
- 50 **Lim D, ed.** *Further readings on Malaysian economic development*. Singapore: Oxford University Press, 1983:309.
- 51 **Barraclough S.** *The political economy of tobacco and health in Malaysia*. 2001. <http://phuakl.tripod.com/pssm/conference/msc3bottom.htm> [Accessed 25 May 2002].
- 52 **U.S. & Foreign Commercial Service, U.S. Department of State.** *Country commercial guide Malaysia, fiscal year 1999*. US Commercial Service. 1998. <http://sites.usatrade.gov/imtp/Malaysia.pdf> [Accessed 25 Nov 2002].
- 53 **McConey G.** Corporate weekly highlights by region. 20 Oct 1995. Philip Morris. Bates No. 2046386290/6296. <http://legacy.library.ucsf.edu/tid/bhi67d00>.
- 54 **Bernama.** Ban on all forms of cigarette promos from Jan 1, 2003. *Bernama Daily Malaysian News* 20 Aug 2002. <http://www.factiva.com> [Accessed 17 Jun 2004].
- 55 **British American Tobacco.** B.A.T. Industries future business environment 1995. 20 Apr 1994. British American Tobacco. Bates No. 202772053/2087. <http://www.library.ucsf.edu/tobacco/batco/html/5200/5220/> [Accessed 1 Aug 2002].
- 56 **British American Tobacco.** [Discussion regarding credibility of the industry]. 30 Apr 1982. British American Tobacco. Bates No. 109877135/7140. <http://www.library.ucsf.edu/tobacco/batco/html/8200/8252/> [Accessed 22 May 2002].