

## RESEARCH PAPER

## Tobacco industry successfully prevented tobacco control legislation in Argentina

E M Sebríe, J Barnoya, E J Pérez-Stable, S A Glantz

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**Objective:** To evaluate how transnational tobacco companies, working through their local affiliates, influenced tobacco control policymaking in Argentina between 1966 and 2005.

**Methods:** Analysis of internal tobacco industry documents, local newspapers and magazines, internet resources, bills from the Argentinean National Congress Library, and interviews with key individuals in Argentina.

**Results:** Transnational tobacco companies (Philip Morris International, British American Tobacco, Lorillard, and RJ Reynolds International) have been actively influencing public health policymaking in Argentina since the early 1970s. As in other countries, in 1977 the tobacco industry created a weak voluntary self regulating code to avoid strong legislated restrictions on advertising. In addition to direct lobbying by the tobacco companies, these efforts involved use of third party allies, public relations campaigns, and scientific and medical consultants. During the 1980s and 1990s efforts to pass comprehensive tobacco control legislation intensified, but the organised tobacco industry prevented its enactment. There has been no national activity to decrease exposure to secondhand smoke.

**Conclusions:** The tobacco industry, working through its local subsidiaries, has subverted meaningful tobacco control legislation in Argentina using the same strategies as in the USA and other countries. As a result, tobacco control in Argentina remains governed by a national law that is weak and restricted in its scope.

See end of article for authors' affiliations

Correspondence to: Stanton A Glantz, PhD, Box 1390, CL 366, San Francisco, CA 94143, USA; [glantz@medicine.ucsf.edu](mailto:glantz@medicine.ucsf.edu)

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Argentina has made the epidemiological transition to an advanced stage in the tobacco epidemic and the Southern Cone region of the Americas leads the hemisphere in tobacco attributable mortality.<sup>1</sup> Argentina is a developing country with economic interests in tobacco growing and rapidly increasing tobacco use in urban areas. In 2000, smoking prevalence was 40.4% among adults<sup>2</sup> (compared to 23.6% in the USA<sup>3</sup>), 30 day prevalence among urban youth (13–15 years old in Buenos Aires) was 30.2%<sup>3</sup> (compared to 17.7% in the USA<sup>4</sup>), prevalence among health professionals was 30.3% among physicians, and 36.3% among nurses<sup>5</sup> (compared to 3.3% and 18.3% in the USA,<sup>5</sup> respectively). In addition, the percentage of young people (13–15 years old) exposed to secondhand smoke (SHS) in Buenos Aires was 69.6% at home, 87.6% in public places, and 27.6% from their friends.<sup>3</sup> Buenos Aires had the highest airborne nicotine levels inside hospitals, schools, government buildings, airports, and restaurants among seven Latin American cities in 2002.<sup>6</sup>

Argentina has been politically unstable with periods of military dictatorships that made laws by decree; the return of democracy in 1983 reintroduced independent branches (executive, legislative, and judicial). Political power, however, has been concentrated in the presidency. The National Congress is responsible for passing federal laws that must be signed or vetoed by the president.

By the late 1970s, two transnational tobacco companies (TTC) dominated the cigarette market in Argentina: British American Tobacco (BAT), through its subsidiary Nobleza-Piccardo (N-P), and Philip Morris International (PMI), through Massalin-Particulares (M-P).<sup>7–9</sup> In addition, Lorillard Tobacco,<sup>10</sup> and RJ Reynolds Tobacco International<sup>11</sup> entered the market in 1971 and 1981 through licensing agreements.

In addition to the USA and Britain, the TTC's strategies<sup>12</sup> to prevent tobacco control legislation have been described in

other developing countries (for example, Hungary,<sup>13</sup> Malaysia,<sup>14</sup> Philippines,<sup>15</sup> Singapore,<sup>16</sup> Thailand<sup>17</sup>) and developed countries (for example, Australia,<sup>18</sup> Finland,<sup>19</sup> Germany,<sup>20</sup> Hong Kong<sup>21</sup>). Despite the economic and cultural differences between Argentina and these countries, TTC have used their Argentinean affiliates to implement similar strategies as elsewhere to block meaningful tobacco control.

## METHODS

Between October 2003 and April 2005 we searched tobacco industry documents in the University of California San Francisco (UCSF) Legacy Tobacco Documents Library (<http://legacy.library.ucsf.edu>), the British American Tobacco Documents Archive (<http://bat.library.ucsf.edu>), and Tobacco Documents Online (<http://tobaccodocuments.org/>). Initial search terms were geographical names, Argentinean politicians and public health leaders, specific dates, TTC subsidiaries, project names, and reference (Bates) numbers near relevant documents. After identifying the first documents or words, we used a snowball strategy to locate new documents. A total of about 230 relevant documents were found.

**Abbreviations:** BAT, British American Tobacco; COMFER, Comité Federal de Radiodifusión (Federal Radio Broadcasting Committee); CTI, Chamber of Tobacco Industry; ETS, environmental tobacco smoke; FCTC, Framework Convention on Tobacco Control; FDA, Food and Drug Administration; ICOSI, International Committee on Smoking Issues; LALCEC, Liga Argentina de Lucha Contra el Cáncer (Argentinean League Against Cancer); M-P, Massalin-Particulares; N-P, Nobleza-Piccardo; PM, Philip Morris; PMI, Philip Morris International; PMLA, Philip Morris Latin America; SHS, secondhand smoke; TTC, transnational tobacco companies; UATA, Unión Anti-Tabáquica Argentina (Argentinean Anti-Tobacco Union); UCSF, University of California San Francisco; US, United States; WHO, World Health Organization

We also used internet resources, major Argentinean newspapers, magazines, and the Argentinean National Congress Library.

We conducted interviews with congressmen, public health officials, and tobacco control advocates in Buenos Aires during December 2003. Interviews were conducted using a semi-structured format according to a protocol approved by the UCSF Committee on Human Research.

A report providing details of the legislative history summarised in this paper, as well as more extensive material from the tobacco industry documents and interviews, is available in the University of California Scholarship repository.<sup>22</sup>

## RESULTS

### Tobacco control legislation from 1966 to 1992

#### First attempts (1966–1974)

The first bill to regulate tobacco was proposed in 1966, to place a health warning label on cigarette packages, motivated by the fact that the USA<sup>23</sup> had adopted such a measure. It did not pass.<sup>24</sup>

In 1970, a military government promulgated Law 18.604 ending cigarette advertising on radio, television, and in movie theatres<sup>25–27</sup> for one year.<sup>28</sup> Both US health authorities<sup>29</sup> and the TTC<sup>30</sup> recognised that the government was responding to pressure by local tobacco producers to curb the increasing threat of foreign commercial competition, rather than health concerns.

The first documented involvement of the TTC in blocking tobacco control legislation came in 1973, when a bill was introduced that would have required a warning label on cigarette packages with fines from violators used to promote alternative crops and industries.<sup>31</sup> According to N-P, “the Chamber of Tobacco Industry (CTI) [Cámara de la Industria del Tabaco, the Argentinean national tobacco manufacturers’ association] intervened informally and kept the bill from being approved”.<sup>32</sup> When a new bill was introduced in 1974 to require a warning label and some advertising restrictions,<sup>33</sup> lawyers from Lorillard Tobacco in New York and the law firm Merval & O’Farrell in Buenos Aires monitored it.<sup>34–37</sup> A Lorillard representative in Buenos Aires<sup>38–39</sup> reported to New York that they had stopped filming the new Kent commercials, “until a final decision on the effectiveness of this law is reached by Congress”.<sup>38–39</sup> The bill passed the Senate,<sup>40</sup> but the Lower House did not approve it.

#### The tobacco industry advertising code of practice (1977)

In 1977, the CTI created its Smoking and Health Advisory Committee (later renamed the Smoking Controversy Department and Permanent Committee), which produced press articles with industry arguments, working papers on medical-scientific aspects of tobacco and health,<sup>41</sup> and a “Self-regulated Advertising Code” to “restrict” cigarette advertisements<sup>32</sup> from being directed at youth (under 21) through publications or events. According to CTI President Alberto Rubio the “Code sponsored for all commercial activities by the National Advertisers’ Association, was endorsed by the country’s authorities”.<sup>32–44</sup> Creating such a voluntary codes has been a common TTC strategy used to prevent the enactment of stronger anti-tobacco legislation in many countries<sup>45–46</sup> while not reducing smoking.<sup>47–52</sup>

#### The Ministry of Social Welfare bills (1976–1979)

Two bills were drafted between 1976 and 1979 by the Ministry of Social Welfare to restrict content of alcohol and tobacco advertisements and require a warning label. The CTI offered its code as an alternative to the proposal which stopped the first bill.<sup>41–42</sup> The CTI also successfully lobbied

government officials against the 1979 bill introduced in response to the World Health Organization’s (WHO’s) international “Smoking or Health,” arguing that several governmental initiatives on the same issue were creating confusion and overlapped with their established code.<sup>41–42</sup>

The TTC discussed these experiences at a 1980 meeting in Frankfurt, Germany, of their International Committee on Smoking Issues (ICOSI), the international equivalent of the US Tobacco Institute, which was formed around 1977 to coordinate their responses to the emerging tobacco control movement.<sup>53</sup> (ICOSI was renamed INFOTAB<sup>54</sup> and, later, Tobacco Documentation Center<sup>55</sup>). CTI’s report, “The situation in Argentina regarding attempts to restrict publicity”,<sup>42–56–57</sup> was presented in the session “How do we Prevent Advertising Restrictions?”.<sup>42–56–57</sup>

#### Increasing organisation by the CTI (early 1980s)

During the 1980s CTI began a campaign to influence the public opinion and gain political support, as Rubio reported at the 1980 ICOSI meeting:

[CTI] put in motion a nation-wide campaign directed to public opinion including widespread counter-information (consisting of the distribution of comments, articles and scientific papers provided by ICOSI, the [US] Tobacco Institute, the [US] Council of Tobacco Research, our associate manufactures and material prepared by ourselves), an institutional campaign to make known our self-restraint in publicity [the Self-regulated Advertising Code] and another for the sector’s image to achieve a greater political space for our action.<sup>42</sup>

A 1981 PMI internal Corporate Affairs Status Report emphasised the importance of having regular contacts with public officials, the military, and the media to avoid advertising restrictions.<sup>58</sup>

During 1982–83, the CTI organised “Information Seminars on the Smoking Controversy” for tobacco company managers, agricultural technicians, and the medical and scientific community.<sup>59</sup> As elsewhere in the world, the CTI communication strategy for the medical community was to attack the scientific evidence on the health dangers as flawed. Another seminar was planned for journalists, tobacco advertising agencies, tobacco products distributors, candidates for public office, representatives, senators, and Ministers of Health.<sup>59–60</sup>

At a 1983 INFOTAB meeting in Washington, DC, Rubio described Argentina’s anti-tobacco movement:

#### SITUATION

- Scarce institutionalization of antismoking groups
- Unsuccessful efforts to pass restrictive legislation
- Good image of the NMA [national manufacturer association] which is taken into account and enjoys credibility because it deals with qualified and objective information

#### POSSIBILITIES

- To use medical-scientific arguments to weaken the campaign foundations
- To act directly as a sound speaker before authorities and antismoking groups<sup>59</sup>

A 1983 Brown & Williamson report described INFOTAB Secretary General’s visit to Buenos Aires to meet with BAT, PMI, and CTI representatives who were extremely concerned about the new elected government and specifically the possibility that Dr Carlos Alvarez Herrera, “the head of the

Anti-Smoking movement”,<sup>61</sup> would be appointed Minister of Health.<sup>61</sup>

### Lost opportunities: three legislative proposals (1984–1996)

October 1983 marked the return of democracy to Argentina and President Raúl Alfonsín nominated Dr Aldo Neri as Minister of Health (1983–1986). Neri appointed Alvarez Herrera (Liga Argentina de Lucha Contra El Cáncer [LALCEC], Argentinean League Against Cancer campaign coordinator) president of the newly created government agency Comisión Coordinadora y Asesora sobre Tabaquismo (Coordinating and Advisory Committee on Smoking).<sup>32</sup>

A 1984 PM visitor to Argentina reported:

An industry-government committee has been formed to discuss labeling and publication of tar and nicotine numbers. Mario Bugna [Technology Group Director, M-P] is the industry’s representative on this committee.... A warning label is forthcoming in about six months under the auspice of the Health Ministry. Tar and nicotine numbers will be generated, however under the Agriculture Ministry. There is some confusion because the National Health Laboratory (equivalent to our [US] Food and Drug Administration [FDA]) is now under the Public Health Ministry.<sup>62</sup>

Repeating a strategy that the tobacco industry used in the USA and elsewhere, in March 1984, the CTI published a leaflet on the tobacco industry’s economic impact in Argentina, summarising “its contribution to the national economy”.<sup>63</sup> Copies were distributed to all national legislators, journalists, members of the Armed Forces, economists, and provincial authorities, newspapers, and magazines. The leaflet led to sympathetic articles in an Argentine business magazine and a publication for legislators.<sup>64 65</sup>

In May 1984, the Secretary of Commerce enacted Ruling 422 placing some restrictions on tobacco advertising, prohibiting models younger than 21 years old and the association of smoking with any type of sports or physical activity.<sup>66</sup> The industry was not concerned because “most of these restrictions, however, had already been in force de facto since 1977 under the terms of a self-regulation agreement [the industry code]”.<sup>67</sup> By 1984, public health officials began to propose restrictions on tobacco advertising that were dominating television and targeting young people.<sup>68</sup> Three proposed bills during this time particularly worried the tobacco industry: the Maglietti, the Neri, and the Pepe bills.

In June 1984, Representative Alberto Maglietti introduced a comprehensive bill to severely restrict tobacco advertising and sponsorship, place strong rotating health warning labels and constituent disclosure on cigarette packages, and establish smoke-free public places.<sup>69</sup> INFOTAB tracked the bill’s evolution and reported that “company lawyers have jointly written a response to the Maglietti Bill (INFOTAB gave extensive help in gathering relevant material)”.<sup>70</sup> A CTI presentation “Responding to a Government Bill” was made at the 1985 INFOTAB Second Latin American Workshop held in Miami.<sup>71</sup> The industry marshalled its standard arguments that any limitations on “the freedom to advertise” would be an unacceptable infringement of rights to prevent the bill from coming to a vote.

In 1985, Minister of Health Neri drafted a tobacco control bill that would almost completely end advertising, sponsorship, and smoking in most public places.<sup>72–74</sup> The US trade newspaper *Advertising Age* described tobacco companies’ and local advertising agencies’ strong opposition to the bill:

“If passed, it will be the most severe tobacco law on the planet Earth” said a worried Pablo Galli, Camel’s account director with [advertising agency] McCann Erikson here [Argentina].

... Last year Argentina’s two leading cigaret marketers, Nobleza Piccardo (British American Tobacco) and Massalin Particulares (Philip Morris), spent about \$11 million on advertising. The agencies include Leo Burnett Co., J. Walter Thompson Co. and most of Argentina’s top shops. “We’ll try to stop it, but if it gets into congress we will launch a campaign to tell the population there is no direct relation between advertising and cigarette consumption, according to research by the International Advertising Assn.”, said Pablo Gowland, president of Gowland Publicidad. The agency handles Nobleza Piccardo’s market leader Jockey Suaves, and Conway.<sup>75</sup>

Both RJ Reynolds<sup>44</sup> and PM closely monitored Neri’s and public health advocates’ efforts to enact the bill, while also noting that the media were willing to accept increasing numbers of cigarette ads.<sup>76–78</sup>

The same year Argentinean lawyer Alberto Kattan sued the Comité Federal de Radiodifusión (COMFER, Federal Radio Broadcasting Committee), the committee that supervises radio and television broadcasting. The lawsuit argued that such radio and television cigarette advertising was illegal because it violated norms that prohibit broadcasting messages harmful to listeners’ health. Soon after, advertising agencies PRAGMA Publicidad (for N-P), and RADIUX Publicidad (for M-P), filed an opposing petition as third parties affected by the lawsuit. In February 1986, the judge ruled in favour of Kattan; COMFER, PRAGMA, and RADIUX immediately appealed, preventing the implementation of the initial ruling.<sup>79–81</sup>

In August 1986, a bill introduced by Representative Lorenzo Pepe was approved as Law 23.344. The law<sup>82</sup> mandated the warning “Fumar es perjudicial para la salud” (Smoking is harmful to health) on tobacco products and put restrictions on advertising that were much weaker than the original 1984 proposal.<sup>83</sup> N-P explained: “After intense activities before different Senators, the CIT [sic CTI] finally succeeded in having the project modified to practically coincide altogether with the Auto-Regulated Code which had been prepared by Industry.”<sup>82</sup> As part of the CTI’s “strategies to counter the threats faced by the industry”,<sup>82</sup> industry representatives met with the Ministers of Interior and Economy, Secretaries of Public Health, Agriculture, Commerce, and Treasury, Governors and provincial ministers.<sup>82</sup>

After Law 23.344 was approved, the Court dismissed the Kattan’s lawsuit against the COMFER and the Neri Bill was shelved.

In October 1986, N-P Corporate Affairs Director presented “How Argentina developed strategies to get an Advertising Law compatible with their Self-Regulation Code” at the INFOTAB International Workshop in Brussels. He identified public health organisations and selected health care institutions as “enemies” and Senators from tobacco growing provinces as “allies”<sup>84</sup> and explained how the Pepe Bill was modified to mirror CTI’s code:

It happened that these circumstantial industry allies were all in the Senate. Therefore we were forced to mark time (which we did very actively!) until the Chamber [Lower House] approved a Bill, to then support in the Senate those whose fundamental ideas coincided with our own, in order to secure the modification of the original Bill,

approval in committee, and definitive approval as modified.

All this strategy was based on the fact that the points on which legislation was desired had already been included in the self-regulatory code which the industry had been working with for many years.

The final result was the Senate approval of a modified Bill with the Chamber later approved without any modification and which follows our self-regulatory code.<sup>84</sup>

The industry successfully used Law 23.344 not only to end the legal challenge to broadcast advertising, but to prevent a ban on tobacco advertising and to block other legislation that could have affected industry's profits.<sup>85</sup> As one observer noted:

Actually there are reasons to suppose that this law is a tactic to defend the tobacco companies' interests, pretending to fight against them. In fact, law 23.344 when it prohibits tobacco advertising during the "minor protection hours," [between 8 am and 10 pm] actually is allowing it during the remaining hours. That is to say, it is a way to prevent to apply the norms that bans to broadcast harmful messages. On the other hand, minors who go to sleep at 10 pm are at the most 9 or 10 years old, and they do not represent the cigarette market. But for adolescents, this could be an additional reinforcement when getting the advertising in a for-adult hour. For the companies, to focus their advertising at that time, means just a saving of money.<sup>79</sup> [translated by the authors]

Several amendments were proposed to strengthen Law 23.344, such as penalties for violations, but CTI stopped them.<sup>32 86 87</sup>

### The Neri Bill's second try (1990–1992): a law with 10 days of life

In May 1990, now-Representative Aldo Neri introduced a comprehensive tobacco control bill<sup>88</sup> drafted by Alvarez Herrera with assistance from WHO while Neri was Minister of Health. It passed the Lower House in September among nearly 200 other bills on the last day of the regular legislative sessions without any amendments and was forwarded to the Senate.<sup>89 90</sup>

PM's strategies to "attempt to prevent it from being passed"<sup>91</sup> in 1991 included the distribution of an extensive report to legislators, listing "all the negative aspects and contradictions such bill involves".<sup>87</sup>

In April 1992, organised by the Unión Anti-Tabáquica Argentina (UATA, Argentinean Anti-Tobacco Union), with support from WHO, the American Cancer Society, and the UICC, the 8th World Conference on Tobacco or Health was held in Buenos Aires, the first time in a developing country. While local tobacco control advocates took the opportunity to support the Neri Bill, PM and BAT worked to divert the attention from the conference by organising briefings with friendly journalists to create controversy about SHS and health.<sup>87 92–122</sup>

According to PM Latin America's (PMLA) vice-president, on 25 September 1992, Provisional President of the Senate Oraldo Britos "called a surprise meeting with representatives of advertising agencies, the media and the tobacco industry to discuss the disposition of the bill during which he *exerted strong pressures* on those who attended [emphasis added]".<sup>89</sup> According to news reports,<sup>89 123–126</sup> Britos requested a "contribution" of \$1 million to shelve the bill and, when he did not succeed, scheduled the bill for a Senate vote on 30

September 1992, the last day of the session.<sup>89</sup> The bill passed the Senate despite strong opposition from Senator José Romero Feris (former Governor of Corrientes, a tobacco growing area).<sup>127–130</sup>

After Congress passed the bill, the industry worked "to create an atmosphere in which a presidential veto would be politically feasible".<sup>89</sup> The CTI wrote to President Carlos Menem requesting a veto and tobacco industry representatives contacted government officials including the Minister of Economy Domingo Cavallo. Governor of Salta Roberto Ulloa, and other governors of the tobacco growing provinces sent letters supporting a veto.<sup>89</sup> The industry also mobilised a major media offensive, including television and radio interviews and paid advertising.<sup>89</sup> On 5 October, PM organised in Buenos Aires "a closed door working session with the media owners, sports figures, advertising executives, and other interested parties, to initiate a campaign in favor of a presidential veto"<sup>89 131</sup> of the bill. Letters were sent to President Menem by the International Advertising Association, the Interamerican Press Association, and the Interamerican Society for Freedom of Commercial Speech, and advertising agencies with offices in Argentina, requesting a veto.<sup>89</sup> Repeating arguments that TTC used elsewhere against advertising restrictions, the Argentine Association of Advertising Agencies stated that restricting cigarette advertising could begin a cascade of events that would undermine "free expression" regarding other products.<sup>89</sup>

On 30 September, a public opinion poll in Buenos Aires was commissioned by the tobacco industry and taken by Tele Survey, the firm President Menem used for his own polls. The result that 71% of 255 respondents "supported" the veto were publicised in major Buenos Aires newspapers,<sup>132</sup> television and radio news, and sent to President Menem.<sup>89</sup>

Carlos Alvarez, a cardiologist, professor at the Catholic University of Argentina, and director of the Cardiovascular Clinics Institute at Buenos Aires, was a tobacco industry consultant used as part of its secret lawyer managed "Latin Project".<sup>133</sup> Alvarez also served as a technical and scientific advisor to President Menem and lobbied him to veto the bill.<sup>133 134</sup> Alvarez wrote to a tobacco industry lawyer requesting \$20 000<sup>135–137</sup> for five working days lobbying members of the Senate and President Menem. According to the lawyer:

Dr. Alvarez's activities included conversations with Senators from both parties and a series of conversations with President Menem as well as President Menem's brother, who serves as President of the Argentine Senate. Dr. Alvarez also provided President Menem with a briefing package and covering letter that pointed out that the smoking restrictions that had been proposed lacked a solid scientific basis.<sup>138</sup>

On 13 October, Menem vetoed the Neri Bill.

Menem's previous association with PM may have been another factor in his decision. According to the Argentinean magazine *Humor*, Menem may have received money ("una suculenta colaboración", a substantive collaboration) from PMI during his presidential campaign in 1988–89.<sup>139</sup>

PMI concluded that "a quick and effective response is facilitated by having a prepared set of arguments, international precedents and legislative proposals".<sup>89</sup> PMI was also concerned about the consequences that the law, if passed, could have had in other countries in the region. Rodríguez (PMLA) distributed a summary of the Argentina case to all PMI representatives of the world, highlighting the "lessons learned":

The impact of anti-tobacco legislation may have a domino effect in neighboring countries. Congressional approval of restrictions such as those contained in Argentina's Neri Bill can inspire other governments in the region to adopt similar legislation. Similarly a president veto in one country can influence initiatives in nearby countries. For example, a longstanding proposal to severely restrict tobacco advertising in Paraguay was rejected by the Senate in the week following President Menem's veto of the Neri Bill. In the same week, a proposal of the same nature in Venezuela's congress was temporarily shelved. Regional economic integration movements, such as MERCOSUR [the Southern Common Market made up by Argentina, Brazil, Uruguay, and Paraguay], can accelerate the domino effect.<sup>89</sup>

PMI was right.

### **Tobacco control legislation from 1992 to 2005: the post-veto era**

#### **The tobacco industry alternative bills**

After securing the Neri Bill veto, the industry started to prepare new legislation as "a constructive counter-proposal"<sup>89</sup> to protect their interests. According to PMLA's vice president, "[the] tobacco industry maintained frequent contact with Senate Health Committee to discuss alternative proposals which culminated in the preparation of substitute bills by several senators for consideration by the committee".<sup>89</sup> Three bills were supported by the tobacco industry: the Molina, the Ulloa, and the Mazza bills.

In November 1992, Senator Pedro Molina, President of the Public Health Committee, introduced an "alternative bill" in the Senate that was consistent with the industry's voluntary advertising code and, rather than mandating smoke-free environments, established areas for smokers and non-smokers in public enclosed buildings.<sup>140</sup> According to an M-P report:

This draft was obtained by consensus with Congress, through the Tobacco Industry Association [CTI] (PM and BAT) jointly with advertising agencies, media associations and previous PMI advice.

It is consistent with PMI marketing code and tobacco industry's self regulating principles.

The Molina Law is a positive improvement concerning anti-smoking regulations, marketing freedom and access to media, when compared with the vetoed Neri Law.<sup>141</sup>

The bill was not voted on and died in March 1994. In May 1994, Molina reintroduced the bill, which passed the Senate in November 1995.<sup>142</sup>

In August 1995, Representatives Pepe and José Corchuelo Blasco introduced another pro-health bill requiring mandatory disclosure of nicotine and tar levels on all tobacco containers.<sup>143</sup> In 1996, the Lower House passed this bill and rejected the pro-industry Molina Bill. While both bills were being considered in the Congress, in October 1996, N-P held a press conference on "Regulatory Framework of Tobacco in Argentina" in Buenos Aires, to launch a new cigarette brand with nicotine and tar content disclosure on packages (later extended to all their brands). According to N-P, this unilateral voluntary measure was adopted anticipating possible approval of new tobacco legislation under discussion in the Congress,<sup>144-163</sup> which did not happen. This action may have been a new tactic of the tobacco industry to block the approval of meaningful tobacco control legislation. In 1997,

the Senate rejected the Pepe & Corchuelo Blasco Bill, because they supported the competing Molina Bill.<sup>143 164</sup>

In 1998-2000, Senator Roberto Ulloa (former Governor of Salta) unsuccessfully reintroduced the Molina Bill.<sup>165</sup> The Secretary of the Senate Public Health Committee recognised the bill as an effort to protect tobacco marketing:

The Province of Salta is one of the largest producers of tobacco in the country. ... [Ulloa wanted the bill] because it was a way to definitively legalize all tobacco advertising and commerce ... to prevent the Argentinean industry to become susceptible to sanctions like in the US, or lawsuits for civil liability, for cancer deaths, etc., so by having a law tobacco marketing activity was more protected. In fact, legally recognized.<sup>164</sup> [translated by the authors]

Minister of Health Dr Alberto Mazza also introduced a bill<sup>166</sup> in 1998 that was similar to the Molina Bill, weak and consistent with the industry's code.<sup>164 167 168</sup> The bill died in the Senate without being considered.

#### **Other efforts to displace meaningful tobacco control (mid 1990s)**

In addition to opposing legislation, TTC promoted voluntary "accommodation" as part of its programme to diffuse the SHS issue, to avoid legislation and maintain the social acceptability of smoking. Since the mid 1990s the regional project "La Cortesía de Elegir" (The Courtesy of Choice), also known as "Convivencia en Armonía" (Coexistence in Harmony), has been developed in Argentina and most Latin America countries to avoid smoking restrictions in the hospitality sector (similar to the PM "Accommodation Program" created in the late 1980s in the USA<sup>169 170</sup>). Launched in Argentina by PM in 1995, and supported by the International Hotel & Restaurant Association and the local Federación Empresaria Hotelera-Gastronómica de la República Argentina (Argentinean Hospitality Industry), BAT joined efforts in 1997.<sup>171 172</sup>

The industry also sought to pre-empt meaningful anti-tobacco education with its own "youth smoking prevention" programmes. The PMI's five point "Youth Access Prevention & Education Programs"<sup>173-182</sup> (including local marketing codes, sampling guidelines, minimum age of purchase laws, education and retailer programmes) were developed for Latin America by 1997, to shift the focus away from the industry's advertising and marketing (as in other countries<sup>183</sup>).

"Yo Tengo P.O.D.E.R." (I have the Power), a "broad-based youth education program intended for educators to help children handle peer pressure",<sup>180</sup> was launched in 1997 in Argentina with the endorsement of the Ministry of Education and CONCIENCIA (consciousness), a local non-profit educational organisation.<sup>46 134 184</sup> In 1998, CTI started the retailer programme "Yo NO Vendo Cigarillos a Menores de 18 Años" (I do not sell cigarettes to minors under 18), equivalent to the 1995 US "We Card",<sup>183</sup> a programme targeted at convenience stores.<sup>180</sup>

Mirroring positions taken by PM in the USA,<sup>185 186</sup> and BAT in the UK,<sup>187</sup> the Argentinean CTI released a new version of its self regulation code in 1997.<sup>188-193</sup>

Another version of the CTI's code was issued in June 2001.<sup>194</sup> A warning text, similar to the one on cigarette packages (the only place required by law), would be placed in all types of publicity such as television, radio, cinema, print media, and outdoor billboards. A CTI's Self-regulating Committee was created to "enforce" the code.<sup>194</sup> In 2001, the CTI adopted the International Marketing Standards for Tobacco Products developed by BAT, PM, and Japan Tobacco.<sup>195</sup>

### The Garré Bill (1998)

In June 1998, Representative Nilda Garré introduced a bill requiring total disclosure of ingredients and additives in the tobacco products, among other measures.<sup>196</sup> PM was concerned, concluding that “the legislative draft reproduces the most severe arguments related to tobacco issues originated by the WHO and the FDA”.<sup>197</sup> PM monitored the bill from New York<sup>198–199</sup> and sent the “PMI Guidelines on Public Policy Issues” to M-P’s communications manager in Buenos Aires to use “in devising strategies to address various proposals emanating from policymakers”.<sup>186–200–201</sup>

PM in New York prepared a detailed response to the issues addressed by the Garré Bill that mirrored the standard positions taken by the TTC. The company claimed that additives were used mainly as flavourings and that it needs to “preserve the value of its confidential trade secrets so it can distinguish its brands from those of its competitors”.<sup>202–203</sup> The response to SHS repeated standard industry rhetoric on “accommodation”<sup>170</sup> and promoted ventilation as an alternative to smoke-free areas.<sup>204</sup>

...solutions designed to minimize uncomfortable or annoying exposure to ETS [environmental tobacco smoke] by nonsmokers...may include ventilation, separation, special lounges, breaks and convenient and comfortable indoor and outdoor smoking areas. ...opposes the imposition of unreasonable smoking restrictions or bans in public places or the workplace. ...enthusiastically supports reasonable voluntary and regulatory measures to accommodate the preferences of both smokers and nonsmokers. ...providing separate smoking and non-smoking areas...<sup>203</sup>

To oppose the Garré Bill, PM in New York also sent M-P the US cigarette labelling law<sup>205</sup> that, while requiring tobacco companies to provide a list of the ingredients added to tobacco in the manufacture of cigarettes to the Secretary of Health and Human Services, did not permit the Secretary to release any of this information to the public<sup>206–208</sup>, and the “PM USA response to Chairman [of the US House Commerce Committee Tom] Bliley regarding ammonia and the bioavailability”<sup>209</sup> stating that PM adds ammonia compounds as processing aids and flavourings, and denying that this additive could increase the amount of nicotine absorbed or delivered to the smoker’s brain.<sup>210</sup> The bill was not approved.

### The Neri Bill’s new attempt 10 years after the veto (2002–2005)

During 2002–2003 at least 18 tobacco control bills<sup>211–228</sup> were introduced in the Lower House including one by Representative Neri in September 2002. This bill was similar to the one vetoed in 1992. In 2003, the Lower House Public Health Committee drafted a version that consolidated all 18 bills into one that included pro-health provisions, and forwarded it to 12 other Congressional Committees. On 4 November 2003 Representatives from the 13 committees, the Minister of Health, public health officials, and representatives of both tobacco subsidiaries (M-P & N-P), were scheduled to meet in the Congress to discuss the proposals. Surprisingly, the Budget and Treasury Committee’s officials “could not participate” and the meeting was postponed indefinitely,<sup>229</sup> a victory for the tobacco industry that succeeded in tabling the bills.<sup>230</sup>

In July 2004, Neri introduced the bill again<sup>231</sup>; as of July 2005 there had been no action on the bill.

### The Framework Convention on Tobacco Control

International efforts for tobacco control have been focused in 2003–4 on the signing and ratification of the Framework Convention on Tobacco Control (FCTC), the first worldwide public health treaty.<sup>232</sup> Argentina opposed the treaty during the negotiations,<sup>233</sup> and its delegation included a representative of the Secretary of Agriculture, who was a “staunch defender of the tobacco producers”.<sup>234–235</sup>

At the same time, a 2001 urban survey conducted in Argentina showed strong public support (93%) for tobacco smoking restrictions.<sup>236</sup> On 25–26 August 2003, an International Meeting on Tobacco Control was held in Buenos Aires supported by the Ministry of Health, to discuss the implications of the FCTC in Argentina and the MERCOSUR<sup>230</sup> and highlighting the treaty as “a historical opportunity” to promote tobacco control policies. Attendees included WHO, Pan American Health Organization, World Bank, MERCOSUR, Bolivia, and Chile.<sup>237</sup> On 25 September 2003, President Néstor Kirchner and Minister of Health Dr Ginés González García signed the FCTC. In October 2003,<sup>238–239</sup> legislators drafted bills to ratify the treaty and in June 2004, the Executive Branch introduced a similar bill through the Senate Foreign Relations and Culture Committee.<sup>240</sup> In October 2004, several pro-tobacco senators<sup>241–242</sup> presented a competing bill “to create a commission to follow and control the implementation of the FCTC”<sup>243</sup> which tobacco control advocates considered a tactic to avoid FCTC ratification. At the same time, international commercial agreements to invest in the regional tobacco industry may be used to promote a climate whereby tobacco control legislation is viewed as delaying economic progress.<sup>244</sup>

As of July 2005, Congress had not ratified the FCTC.

### DISCUSSION

The tobacco industry has worked successfully for almost 40 years to block tobacco control legislation in Argentina, using similar tactics used in the USA and the rest of the world.<sup>12</sup> The CTI was organised to provide a rapid response to new proposed legislation. As in other countries<sup>14–47–52</sup> the industry created a self regulation code, widely ignored, as a tool to avoid meaningful restrictions on tobacco advertising.

In the late 1970s, tobacco control advocates emerged to inform the public about smoking effects, and began to pressure public officials to restrict tobacco use. The LALCEC, a non-governmental organisation, became the leading tobacco control group in 1978, and its campaign LALCEC/83 (1978–83) was one of the most prominent examples of advocacy at that time.<sup>28–32–245–247</sup> In 1987, following the 6th World Conference on Smoking and Health, the UATA was formed as a coalition of institutions to advocate for a new tobacco control bill and to promote educational and prevention activities.<sup>247–249</sup>

During the 1980s, efforts to pass comprehensive tobacco control legislation intensified. However, tobacco control groups were overwhelmed by the well organised tobacco industry that prevented the passage of such bills. As of 2005, the weakened 1986 Pepe Law was the only federal legislation that established limited restrictions on tobacco advertising, and all it did was codify the industry’s ineffective voluntary code. Legal restrictions on tobacco advertising are weaker than those contained in the industry’s code because the industry voluntarily stopped advertising on Argentinean television in 2003<sup>250–251</sup> in accordance with the code’s 2001 version and the International Marketing Standards. No measures to regulate SHS have ever been implemented at the federal level and indoor smoking is widely prevalent.

Our findings complement earlier descriptions of the industry’s “Latin Project”.<sup>133–134–252</sup> Tobacco industry representatives, together with their allies, ETS consultants,

### What this paper adds

Tobacco control in Argentina is governed by a weak 1986 national law that essentially codified the tobacco industry's ineffective voluntary advertising code and a weak health warning on cigarette packages. No measures to regulate secondhand smoke have ever been taken at the federal level and indoor smoking is widely prevalent in the country.

Transnational tobacco companies have been highly influential in Argentina. Using similar strategies as elsewhere in the world, the tobacco industry successfully blocked, delayed, and diluted meaningful federal tobacco control bills. Public health officials and tobacco control advocates need to understand how the industry operates and work to isolate the industry and make it more difficult for policy-makers to support the tobacco industry.

advertising agencies, and the local press, operated as an efficient and well coordinated team (similar to the Asian<sup>253</sup> and European<sup>254</sup> ETS consultants programmes). The veto of the Neri Bill in 1992 was the most significant success of this project and effectively deterred tobacco control legislation for over a decade. Subsequent to the Neri Bill veto, the industry and its allies proposed alternative weak bills. Even though they were not approved, these bills served to distract political and public attention so that all efforts at tobacco control legislation were neutralised.

In Argentina, as throughout the world,<sup>170 183 255</sup> the industry has also promoted its "accommodation" programme to avoid the creation of smoke-free environments and its "youth smoking prevention" programmes to show a positive image and to prevent a tobacco advertising ban and the development of meaningful tobacco control programmes. These programmes do not affect youth smoking.<sup>256–259</sup>

Strong legislation is one of the main components to curb the tobacco epidemic and associated health damage. For example, in California a large tobacco control programme financed by a tobacco tax increase, combined with smoke-free workplaces and public place policies, rapidly reduced cigarette consumption and associated heart disease<sup>260</sup> and lung cancer.<sup>261</sup> As in Argentina, other countries in Latin America have not yet passed strong tobacco control legislation. Brazil, the single exception, has taken the lead in the region and the world. Its success relied on a strong leadership by the federal government through a National Tobacco Control Program in partnership with a broad network of tobacco control advocates, the media, and professional associations.<sup>262 263</sup> Federal laws have been passed ending all tobacco advertising except inside point-of-sale<sup>264</sup> (2000), and deceptive descriptors (that is, "light" and "mild")<sup>265</sup> (2001), and mandating strong rotating health warning labels and images on all cigarette packages<sup>266</sup> (2003).

Public health advocates and policymakers in Argentina—and Latin America—should be aware of TTC's tactics in order to anticipate their moves. They need to develop stronger, more confrontational programmes designed to isolate the tobacco industry and to make it more difficult for politicians to support it. Not learning from others' experiences will only delay the implementation of effective tobacco control legislation in these countries.

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### Authors' affiliations

**E M Sebrí\***, **E J Pérez-Stable†**, Division of General Internal Medicine, Department of Medicine, University of California San Francisco, USA  
**J Barnoya‡**, Center for Tobacco Control Research and Education, University of California San Francisco, USA  
**SA Glantz§**, Division of Cardiology, Department of Medicine, University of California San Francisco, USA

\*Also Division of Cardiology, Department of Medicine, Medical Effectiveness Research Center for Diverse Populations, Center for Tobacco Control Research and Education, University of California San Francisco

†Also Medical Effectiveness Research Center for Diverse Populations, and UCSF Comprehensive Cancer Center,

‡Also Unidad de Cirugía Cardiovascular de Guatemala, and Medical Effectiveness Research Center for Diverse Populations

§Also Center for Tobacco Control Research and Education, and UCSF Comprehensive Cancer Center

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