

British American Tobacco – The other report to society

Action on Smoking and Health (London)

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Summary and introduction

British American Tobacco (BAT) is the world's second largest and most international tobacco company. It has recently embarked on a process of stakeholder dialogue and social and ethical reporting as part of its corporate social responsibility initiative. BAT has announced it will produce a 'Report to Society' to give an account of its social and environmental impacts.

ASH does not wish simply to dismiss this exercise or question corporate social reporting in general, but to offer a reality-check, which can be read as a companion volume to BAT's report. We have drawn together the main issues that we see as integral to social and ethical reporting for a tobacco company, and drawn out the implications for BAT's own process.

Summary

The problem with BAT is not only that it makes a deadly and addictive product. We judge BAT by how it behaves, its business practices, the directions it takes and its truthfulness. We find BAT to be irresponsible because of the way it conducts its business, not simply because of what it makes.

Involvement in the stakeholder dialogue. ASH has provided information in some depth to BAT's social auditors but declined to become involved in dialogue. We have offered three reasons for this: we cannot see any outcome that would benefit the public health agenda; we see no evidence of good faith or candour on BAT's behalf; and the process was managed badly.

BAT's view of its business. BAT cannot even be candid about the very essence of its business. It sells an addictive drug and the physical dependence of its customers on its products is the central feature of its business. BAT's internal documents show that it has recognised the addictive properties of its product internally for several decades, but it still denies and obfuscates today.

Candour about health risks. BAT's acceptance of health risks from smoking is grudging and incomplete, and designed to promote doubt rather than clarity in the minds of users of its products. The company only really accepts positions on smoking and health that would leave them looking ridiculous if they continued to dispute them, but it still equivocates about the addictiveness of nicotine and completely denies harmful effects of passive smoking.

Estimates of the impact of its products. BAT has so far refused to accept any estimates of the impact of its products on premature death – and certainly does not take partial responsibility for them. Based on widely accepted epidemiology and BAT's market share, we estimate that around 1 million people will die prematurely from BAT's current *annual* sales and around UK£950 (US\$1,400) of profit for every life lost. This is the most important impact of its products and should be estimated in its social reporting.

Impact of passive smoking. In the face of overwhelming scientific evidence to the contrary, BAT continues to deny that passive smoking is a cause of serious illness. The denial is not driven by scientific concern, but that harm caused to non-smokers will lead smoking in public to become unacceptable. BAT continues to use deliberate distortions of science to make its case.

Negative economic impacts. The World Bank estimates a global cost of US\$200 billion per year arising from tobacco – BAT's share being about \$30 billion per year. The purported 'benefits' of early death of smokers are far outweighed by extra costs while living. Reductions in tobacco consumption tend to *increase* employment as consumer expenditure does not disappear but is diverted. BAT has no right to claim credit for tobacco taxation –

tobacco is just one of many convenient tax bases. In Bangladesh, expenditure on tobacco diverts money from food and pushes an extra 10 million people into malnutrition, and is responsible for some 300 infant deaths per day.

Negative environmental impacts. Tobacco production and manufacturing has a variety of environmental impacts, including deforestation, soil degradation, ozone depletion and other serious impacts, but with no compensating economics or other benefits usually used to justify pollution. However, the environmental impacts are dominated by indoor air pollution, which causes a huge toll of premature death and child illnesses. For example, figures for the United States suggest 3,000 non-smoking adults die from cancer and 35-62,000 from cardiovascular disease due to environmental tobacco smoke.

Misleading consumers – ‘light’ cigarettes. BAT indicates that it wants to produce cigarettes that are less harmful. However, it already produces ‘light’ cigarettes that many of its customers will assume, incorrectly, are less hazardous. BAT has known for decades that these products are just as harmful as regular cigarettes, but branded them with the aim of providing false reassurance to smokers concerned about health. We regard this as a deadly and deliberate consumer confidence trick, which actually results in extra avoidable deaths.

False youth smoking prevention (YSP) initiatives. BAT has over 150 initiatives supposedly aimed at reducing youth smoking. We regard these as empty public relations gestures. Public health experience and evidence indicates that these are worthless and even likely to make smoking more attractive by defining it as an ‘adult choice’. BAT proposes only those measures known not to work, while resisting those – such as taxation – that do have an impact on youth smoking, and then tries to have these adopted by governments with BAT providing funds. These initiatives define smoking as a ‘youth’ issue, and aim to create a laissez-faire environment for promotion to adults. The voluntary marketing restrictions should be judged by what they permit rather than what they restrict - and it is clear that they will be completely ineffective. Though the flaws in its approach have been carefully documented and presented to BAT, the company continues these campaigns despite requests from the public health community to stop them.

Smuggling. Smuggling reduces average prices, increases consumption and undermines government health, consumer protection and tax policy. Hundreds of internal documents show BAT has actively managed and developed the black market in its own products. It now faces a government investigation in the UK and legal action in the US courts for racketeering and money laundering. It is hard to see how social auditing will resolve the different views of BAT’s conduct, but changes to BAT’s corporate governance and distribution system to actively prevent smuggling should be pursued.

Price fixing. There is clear evidence that BAT has fixed prices or market share with its main rivals in at least 23 markets. An expose published in *The Economist* detailed covert meetings and a wide range of cartel agreements, all in violation of the OECD code of practice for multinational companies. BAT has not acknowledged its wrong-doing, apologised or stated what measures it has taken to prevent such abuses in the future.

Document shredding. BAT was found by an Australian court to have deliberately shredded documents to deny justice to victims of smoking-related disease. The court took the very serious step of striking out BAT’s defence in a lung cancer case. This may create a flood of actions against which BAT would have no defence. This policy was conducted world-wide with top-level approval and opens BAT to legal risks in many jurisdictions. BAT’s main response has been to belittle the implications of the judgement and consequences of its own misconduct.

Unethical public relations. BAT has been part of public relations activity – either on its own or jointly with other companies – aimed at subverting the normal processes of governance and policy making, or undermining legitimate scientific. BAT was part of a deceitful campaign to undermine the work of the International Agency for Research on Cancer; it participated in the infiltration and undermining of WHO; and wielded excessive and inappropriate influence with senior politicians in Europe.

Human and labour rights. BAT and other companies do claim to tackle child labour and other labour violations and if these efforts are genuine they are to be welcomed. However, BAT has been strongly criticised by Christian Aid for the treatment of farmers in Brazil. However, the greatest human right of all is the right to life. Any claims for human rights have to be set against the premature death toll of one million persons per year and the process of recruiting young people to tobacco use and addiction.

BAT in reality. BAT is an aggressive company, both in the marketing of its products and in its approach to public policy, where it is happy to use legal action and deceitful PR to get its way. We think it is important to draw on concrete examples of BAT's activities as they happen on the ground, not as they are reconstructed by the company for the benefit of investors, the media or other stakeholders. We give a series of examples of BAT's conduct as reported by people living in the countries where BAT operates.

Recommendations. We make recommendations because we believe these are the right things to do. We do not believe the BAT will do them. We recommend that British America Tobacco:

- Supports (at least drops its opposition to) a full public health agenda for tobacco;
- Abandons all youth smoking prevention programmes immediately;
- Stops lying about its products and their impacts;
- Supports a progressive WHO Framework Convention;
- Strengthen corporate governance to prevent smuggling, price fixing, document shredding and to define acceptable limits to PR activity;

For BAT's social auditors we recommend a highly critical and evidence-based approach. It is quite possible and likely that well-meaning engagement with British American Tobacco will strengthen a public relations exercise, lend credibility to worthless and damaging initiatives, and work against public health and sustainable development.

This report contains extensive internet links to background material, sources and evidence in the **References and Links** section at the end.

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BAT's social auditing initiative and ASH's response

In its annual report for 2002[1], the Chairman of British American Tobacco (BAT) says it wants to:

"[meet] our commercial objectives in a manner consistent with reasonable social expectations of a responsible tobacco group in the 21st Century.

"Our commitment to corporate social responsibility is based on the belief that multi-national corporations should be answerable to society.

"[social reporting] gives us an opportunity to show that what we actually do is already different from the picture that is actually painted.

BAT's process is conducted according to the AA1000 standard, promoted by AccountAbility (the Institute for Social and Ethical Accountability)[2]. The primer guidance on AA1000 gives a good outline of the purpose and scope of such reporting:[3]

The key elements of social and ethical accounting

- Planning - understanding mission and values, and identifying stakeholders and issues;*
- Stakeholder engagement and dialogue - understanding what matters about performance;*

- Measurement - building comparable, understandable and reliable information;*
- Reporting and disclosure - finding ways to communicate and gather feedback;*
- Auditing, verification and quality assurance - building credibility and trust with stakeholders;*
- Commitment to improve performance - making real change - social, environmental and economic;*
- Embedding - building social and ethical accounting into mainstream operations, systems and policy-making.*

The key social and ethical issues

Because social and ethical accounting is about identifying issues that matter to stakeholders (including shareholders), there is no 'one size fits all' answer. A sample of issues from recent reports includes:

- The organisation's values and governance;*
- Its regulations and controls, and its compliance with law, internal codes and external standards;*
- The impact of its products, services and investments;*
- Its impact on other species and the environment;*
- Its contribution to the economic capacity of the communities in which it operates;*
- Human rights;*
- Bribery and corruption;*
- Labour and working conditions.*

ASH's response to BAT's social reporting initiative

Action on Smoking and Health (ASH) is a public health campaigning charity, which has the goal of reducing the addiction, death and disease caused by tobacco. As such we can be defined as a stakeholder in BAT's business, though one that is opposed to virtually everything it does.

We have participated, albeit in a limited way, in the stakeholder dialogue that BAT's auditors established as part of its social and ethical reporting initiative. Our involvement has been limited to providing extensive information to the organisation conducting the stakeholder dialogue, but not participating in meetings or further dialogue. Cancer and heart charities, the British Medical Association, and Royal College of Physicians adopted a similar approach. Our reasons for not joining in more fully are in three main categories:

1. **No good faith and primarily a PR exercise.** We do not believe BAT is acting in good faith and that its motives are primarily to add lustre to its tarnished image and to co-opt critics – a well established approach in modern public relations[4]. It is important to remember that BAT and other tobacco companies have committed 40 years of well-documented deceit and abuse of civil society[5]. We simply cannot expect to wipe the slate clean and ignore this as if it never happened. We also see BAT saying one thing in its London-based public relations, but as soon as anyone looks at what it is doing in practice, it is the same old company up to ever more sophisticated versions of the same old abuses.
2. **No public health benefit to justify the time and cost.** We see little benefit coming from it in public health terms, and that is our objective. There are virtually no areas where BAT and ASH can find common cause – we characterise BAT's relationship with public health as a zero sum game. Our efforts and limited resources are best spent in pressing for meaningful public policy measures at national European and international level that control the activities of tobacco companies and reduce smoking. An invitation to a stakeholder dialogue, is an invitation to spend our funds on BAT's initiative, when we believe we can spend our money and time better in other ways. Where we do believe there is potential common ground we retain the option to meet with tobacco companies on a case-by-case basis.
3. **Incompetent dialogue process.** BAT's chosen interlocutor, a religious organisation called Durham Ethics, was in our view clumsy in the way it conducted the process right from the outset and in the way it represented the views of the various protagonists. Our correspondence with Durham Ethics expands on this[6] and although apologies were received, we concluded that redemption was impossible.

Any one of these would suffice to justify minimal involvement in the process, but in fact all three applied in abundance.

Deceit about BAT's core business

Will British American Tobacco speak honestly about its product to its stakeholders and to society? It has not happened so far in its history.

The candid account of its product is as follows: Cigarettes are a delivery system for the highly addictive drug nicotine. Tobacco smoke is effective in delivering a very rapid dose of nicotine to the brain via the lungs, but causes severe health risks to the user. Most smokers start as juveniles and then find it increasingly difficult to stop as nicotine addiction sets in. The success of BAT in retaining customers for many decades is rooted in nicotine addiction. Without young people taking up smoking the market would wither and the recruitment of young people to smoking is essential both to individual companies competing for market share and for the industry as a whole.

What BAT says about its business

BAT describes its business as providing products that people want for pleasure.

We produce high quality tobacco products to meet the diverse preferences of millions of consumers, and we work in all areas of the business - 'from seed to smoke'. [...] Our companies are committed to providing consumers with pleasure through excellent products

The problem with any tobacco company being too candid about nicotine addiction was neatly summarised by a lawyer advising the US tobacco industry in 1980.

"...[T]he entire matter of addiction is the most potent weapon a prosecuting attorney can have in a lung cancer/cigarette case. We can't defend continued smoking as 'free choice' if the person was 'addicted'."
[7] (Tobacco Institute, 1980)

And so it is with BAT's approach. BAT's publicly stated view is that smoking is essentially a risk behaviour in which users make a trade-off between the risks and benefits. In its 2002 annual report, BAT states:

We accept that our products are risky. Along with the pleasure of smoking comes real risk of some serious diseases and the recognition that smoking can be difficult to quit.

Despite being the defining characteristic of smoking, nicotine addiction is not mentioned in this statement explicitly and is dismissed as a troublesome side-effect. In its evidence to the Commons Health Select Committee in 1999, BAT places "addiction" in incredulous quotation marks and dismisses it thus[8]:

There is nothing so powerful about the pleasure of smoking that prevents a smoker from reaching and carrying out a decision to quit, as hundreds of millions of former smokers demonstrate.

The mendacious device employed here is to assume a definition of addiction that includes complete powerlessness of the addicted. Under such a definition heroin would not be addictive - nothing would be addictive under this definition and the word denuded of any meaning.

However, in an extensive survey of the evidence, the Royal College of Physicians stated in 2000[9]:

- Nicotine is highly addictive, to a degree similar or in some respects exceeding addiction to 'hard' drugs such as heroin or cocaine:*
- Most smokers do not smoke out of choice, but because they are addicted to nicotine*

The science is backed by surveys of smokers. The official survey of UK smokers typically shows in excess of two-thirds of smokers would like to quit[10]:

Seventy one per cent of current smokers said that they wanted to give up smoking. Thirty per cent of smokers said that they very much wanted to stop smoking, and a further fifth (20%) said they wanted to stop 'quite a lot'.

A survey of smokers for ASH and No Smoking Day, found that more than four out of five smokers would not smoke if they had their time again[11].

When asked: "If you had your time again would you start smoking?" 83% of current smokers replied that they would not (79%men, 87% women). [...] Given the supposedly carefreeand rebellious image attributed to teenagers and young adults,young people were also very disenchanted with smoking: 78% ofthose aged 16 to 24 declared that they would not smoke given theirtimeagain.

BAT's longstanding private views of its business

Despite BAT's denials and obfuscations, its scientists and top executives and have privately acknowledged the true nature of its product for almost 40 years. Internal documents released through litigation give a clear picture of what BAT has known for years:

"Nicotine is addictive. We are, then, in the business of selling nicotine—an addictive drug effective in the release of stress mechanisms." (Brown & Williamson, 1963) [12]

"It may be useful, therefore, to look at the tobacco industry as if for a large part its business is the administration of nicotine (in the clinical sense)." (BAT, 1967)[13]

"...BAT should learn to look at itself as a drug company rather than as a tobacco company." [14] (BAT, 1980)

"A cigarette as a 'drug' administration system for public use has very, very significant advantages: Speed. Within 10 seconds of starting to smoke, nicotine is available in the brain. Before this, impact is available, giving an instantaneous catch or hit, signifying to the user that the cigarette is 'active.' Flavour, also, is immediately perceivable to add to the sensation. Other 'drugs' such as marijuana, amphetamines, and alcohol are slower and may be mood dependent." [15] (BAT, undated)

It is perfectly clear that BAT is dishonest about the essence of its business – its says one thing in private and something quite different to the public.

Implications for social auditing

BAT says in its 2002 annual report that:

"[social reporting] gives us an opportunity to show that what we actually do is already different from the picture that is actually painted.

What BAT actually does – the very essence of its business - is perhaps the most important subject for a social report. The science is clear, BAT's internal documents are clear, and the experience of many of BAT's customers is clear – the company is in the business of promoting a highly addictive drug and retains customers in part through development of physiological dependence, a process which begins for most smokers in childhood. However, BAT describes smoking as a 'pleasure' and an 'adult choice'.

A credible social audit would give some clear assessment of the nature of BAT's business. However, preliminary documents prepared by BAT's social auditors in July 2001 did not look at all encouraging in this regard. We responded to extremely simplistic statements made by BAT's social reporting team as follows[16]:

Nor is it a battle between those "who wish to pursue one of life's illicit pleasures" and "those who wish to stamp out one of public health's major scourges" - a highly value laden stereotyping of the wrong protagonists. Most smokers want to quit but are addicted. Most public health campaigners do not want to stamp out the tobacco industry. It is classic tobacco industry spin to describe the conflict as a fight between smokers and the public health community,

Harm caused by BAT's products

It took until 1998 before BAT admitted with that its products caused any harm at all. Up until then they had undertaken an elaborate public relations exercise to maintain a 'controversy' about data that had convinced most respectable scientists some 40 years earlier that smoking was a cause of serious diseases like cancer. This is perhaps the greatest exercise in corporate mendacity the world has ever known and one of the most serious corporate crimes of the 20th Century. No admission has ever been made, no apology has been forthcoming and no one has lost their job. BAT now says:

Along with the pleasures of cigarette smoking come real risks of serious diseases such as lung cancer, respiratory disease and heart disease. We also recognise that, for many people, it is difficult to quit smoking. Put simply, smoking is a cause of certain diseases

However, those grudging admissions did not mark an end to deceiving the public about the health effects of smoking, merely a new and more sophisticated stage. The idea was merely to abandon logical territory that was no longer tenable and leaving its spokespeople repeatedly humiliated, but not to make any real concessions to the long-established science.

After reviewing in 2000 all the new postures adopted by Philip Morris, BAT, Japan Tobacco, Imperial Tobacco, and Gallaher, the UK House of Commons Health Committee summarized the supposed change of approach:

It seems to us that the companies have sought to undermine the scientific consensus until such time as that position appears ridiculous. So the companies now generally accept that smoking is dangerous (but put forward distracting arguments to suggest that epidemiology is not an exact science, so that the figures for those killed by tobacco may be exaggerated); are equivocal about nicotine's addictiveness; and are still attempting to undermine the argument that passive smoking is dangerous. [17]

A proper assessment of the health impact of its products would include the following.

A recognition of the range of diseases caused by smoking

BAT has never set out which diseases it accepts are caused by smoking. There are about fifty different illnesses associated with smoking – but BAT acknowledges only "*lung cancer, respiratory disease and heart disease*". In the case of other diseases it merely comments on the evidence in the third person or passive voice and leaves itself an escape by describing the studies as 'statistical' – thus allowing it to dispute the statistics if necessary later. Its comments on the health impacts of smoking during pregnancy are typical of the approach.

Smoking in pregnancy

Public health authorities generally advise that pregnant women should not smoke, and have publicised this widely. Many statistical studies have reported a link between lower birth weight in babies and mothers who smoke throughout pregnancy. Some statistical studies have reported, amongst other factors, links between smoking in pregnancy and infant mortality, premature birth, miscarriage and stillbirth. In our view there should be strong public health advice to women not to smoke during pregnancy.

At no point does BAT accept that smoking causes birth complications. It argues that there should be strong public health advice, but BAT does not propose to offer that advice itself.

A quantification of risk

BAT has never given a quantification of risks arising from use of its products and disputes any quantification made by others. It says:

“Of course the public should be informed of the risks”

However, BAT takes no responsibility for informing the public, and in fact creates doubt about the risks without actually denying them. For example:

Traditionally, epidemiology has been used to identify associations that point to possible causes of a disease, providing direction for thorough laboratory investigations. With smoking, the many laboratory investigations over the years have proved more problematic, and science has not to date been able to identify biological mechanisms which can explain with certainty the statistical findings linking smoking and certain diseases, nor has science been able to clarify the role of particular smoke constituents in these disease processes. Science is still to determine which smokers will get a smoking related disease and which will not. Nor can science tell whether any individual became ill solely because they smoked. This is, in part, because all of the diseases that have been associated with smoking also occur in life-long non-smokers.

Implications for social reporting

If BAT wanted its customers to be informed it could enclose an insert in the pack detailing all the health risks and attempting to quantify the risk, relative to other well known hazards. What should a realistic discussion of the health effects look like? For example for the UK it could point out that:

- smoking is the most important cause of premature death in developed countries. It accounts for one fifth of deaths in the UK: some 120,000 premature deaths a year.
- the average loss of life expectancy for all cigarette smokers in the developed world who die from smoking related diseases is about 16 years. For those who die in middle age (35-69 years) the figure is 22 years and for those killed by tobacco at older ages the figure is 8 years.
- men who have never smoked have a 78% chance of reaching 73 years of age whereas those who start smoking by the age of 20 and never stop have only a 42% chance.
- smokers in their thirties and forties have five times as many heart attacks as non-smokers
- current average risks for one thousand UK 20 year olds who smoke cigarettes regularly is that about one will die from homicide, six from motor vehicles and 250 will be killed by smoking in middle age and 250 in old age. (Middle age is defined as 35 to 69 years).
- smoking in pregnancy causes adverse outcomes, notably an increased risk of miscarriage, reduced birth weight and perinatal death. If parents continue to smoke after pregnancy there is an increased rate of sudden infant death syndrome.

These are all reliable evidence-based statements about risk found in the report of the Scientific Committee on Tobacco and Health (SCOTH)^[18] – a panel of scientists that provides advice to the Secretary of State for Health. But BAT never makes statements with this sort of clarity or straightforward language.

Quantifying the impact of BAT’s business on human health

A credible social audit would attempt to give some scale to the smoking related impacts of BAT’s operations. The following sections give some worked examples.

A quantification of the total premature death toll arising from its annual sales

BAT has never said how people become ill and die as a result of using its products. BAT sells about 807 billion cigarettes per year (2001) and states that 5.3 trillion cigarettes are sold world-wide – indicating a BAT market share of 15% by volume. The World Health Organisation accepts estimates that 4 million people die prematurely each year as a result of smoking, and that this will rise to 10 million by 2030^{[19][20][21]}. Given that today's level of smoking will be causing disease in the future, we take the average annual death toll over this period – 7 million – as a basis for assessing BAT's contribution. Attributing these according to BAT's current market share (15%) leaves BAT with responsibility for just over 1 million deaths per year. Over the period to 2030, over 200 million people will die from tobacco-related disease on current projections – BAT's share at current market share being about 30 million.

Responsibility of BAT's other stakeholders

BAT has never pointed out that its stakeholders enjoy some responsibility for this annual death toll. Here we *provide* some figures to assist stakeholders to assess their role. BAT's profits for 2001 were £1,010 million. These profits are owned by the holders of 2,179 million ordinary shares in BAT, trading at £7.52 per share (10 May 2002).

Annual deaths associated with BAT's current operations	1.06 million
Market cap per annual death	£15,367
Number of ordinary shares per annual death	2,054
Profit per death	£948
BAT customer deaths per person-year of employment	12

BAT's current share price reflects the anticipated present value of future earnings over many years. Unfortunately, the A1000 standard used for social reporting does not provide guidance on how a social auditor should discount future product-related deaths to create a 'present value' for the premature mortality arising from the operations of a business over a period of years. The UK Treasury 'green book' recommends discounting health impacts at 2% or less. This gives present value of 22 million BAT-related deaths for the period 2002 to 2030.

Deaths associated with BAT's operations to 2030 (PV 2%)	22 million
Market cap per death	£690
Number of ordinary shares per death	92
BAT customer deaths per BAT employee job	248

Implications for social auditing

Any credible social audit must examine the greatest social and environmental impacts of the company's operations. In the case of a tobacco company, this means the large number of smoking related deaths and diseases that arise from the use of its product.

Other issues, such as deforestation, child labour, environmental management are important and should be audited and reported on. However, the negative impact of BAT's business on society is *dominated* by smoking-related health impacts and these should assume proportionate prominence in any 'Report to Society'.

Harm caused to non-smokers

A critically important impact of BAT's products is the harm caused to non-smokers – where children, spouse, colleagues or others sharing the same public place. Society deals differently and more severely with risks imposed by one group on another. The impact of environmental tobacco smoke (ETS) is discussed in [Environmental impacts](#) below, but the best current estimates suggest There is in fact an extensive peer-reviewed

scientific literature and numerous research assessments that conclude that passive smoking is a cause of fatal lung cancer, cardiovascular disease and stroke and causes or aggravates serious respiratory disorders. After a thorough review of the evidence, including the large volume provided by the tobacco industry, the UK government's Scientific Committee on Tobacco and Health (SCOTH) concluded[22]:

Exposure to environmental tobacco smoke is a cause of lung cancer and, in those with long term exposure, the increased risk is in the order of 20-30%.

Exposure to environmental tobacco smoke is a cause of ischaemic heart disease and, if current published estimates of magnitude of relative risk are validated, such exposure represents a substantial public health hazard.

Smoking in the presence of infants and children is a cause of serious respiratory illness and asthmatic attacks.

Sudden infant death syndrome, the main cause of post-neonatal death in the first year of life, is associated with exposure to environmental tobacco smoke. The association is judged to be one of cause and effect.

Middle ear disease in children is linked with parental smoking and this association is likely to be causal.

BAT's approach to passive smoking

There are two central planks to BAT's libertarian case for the acceptability of its product. The first has already been discussed – that the smoker weighs risks and benefits and chooses to smoke. The 'choice' argument is destroyed by the fact of nicotine addiction, and this explains BAT's mendacity on the subject of this most central characteristic of its product.

The second plank of the libertarian case is that no others are harmed and the damage is inflicted only on the smoker. This explains BAT's continuing mendacity on the subject of passive smoking.

BAT denies that passive smoking is a cause of serious disease despite overwhelming scientific evidence to the contrary. Passive smoking is convincingly linked to the following diseases in non-smokers: lung cancer, cardiovascular disease, stroke, asthma and other lung diseases and a range of impacts on child health. ASH maintains a substantial literature review of passive smoking science and other sources on its web site[23]. BAT simply asserts its case with minimal supporting evidence[24].

BAT flatly denies there are serious health effects associated with passive smoking. BAT says:

There are claims that environmental tobacco smoke (ETS), sometimes called 'passive smoking', is a cause of various diseases. We believe, however, that the claim that ETS exposure has been shown to be a cause of chronic disease is not supported by the science that has developed over the past twenty years or so. In our view, it has not been established that ETS exposure genuinely increases the risk of non smokers developing lung cancer, heart disease or chronic obstructive pulmonary disease.

BAT's attempt to belittle overwhelming scientific consensus as "claims" is only the starting point of its mendacity in regard to passive smoking.

BAT's scientific PR effort on passive smoking

However, BAT continues a substantial disinformation campaign aimed at undermining these conclusions. BAT actually supported legal action through the Tobacco Manufacturers' Association against the UK government for publishing this report – the action failed, but the attempt to use the courts to challenge scientific findings (usually on procedural grounds) is a BAT hallmark. It has never published any credible research to back its conclusions - only superficial PR statements designed to mislead. There are many examples of BAT distorting science to try to gain public relations advantage. One of the most blatant and dishonest examples is its misuse of a large

study by the International Agency for Research on Cancer (IARC), which is part of the World Health Organisation.

On its web site (18 May 2002), BAT says:

The WHO study

The largest study on ETS and lung cancer, undertaken by the World Health Organisation (WHO), found no meaningful increase in lung cancer risk for growing up, living, working, travelling or socialising with a smoker. The WHO claimed that this study was consistent with an increased risk from passive smoking, a claim that is hard to make on the basis of their research findings.

The response from WHO and IARC

When BAT first started to use this conclusion in 1998, WHO and the authors of the study responded^[25] by saying: “*don’t let them fool you*” and stated the interpretation placed on the studies in BAT-inspired news coverage in 1998 was:

“false and misleading”.

“the results of this study have been completely misrepresented”

“the results are very much in line with other studies both in Europe and elsewhere: passive smoking causes lung cancer in smokers.

Yet BAT continues to misuse this study as a core plank of its case that passive smoking does not cause lung cancer.

Statistical sleight of hand

The WHO/IARC study does detect elevated lung cancer risks of 16% for spousal exposure and 17% for workplace exposure to passive smoking. This is in line with many other studies and does add to the conclusion that passive smoking causes lung cancer.

So how does BAT claim it shows the opposite? The argument that BAT has used to promote its self-serving interpretation relates to *statistical significance*. When findings are derived from any study, there is always a chance that the results were obtained by chance and do not reflect what is happening in reality. To deal with this, statisticians define tests of confidence in the result – generally studies that have larger sample sizes, show large effects and with less variation in the results give greater confidence. One test often used is: “can we be 95% sure that this result could not have happened by chance?” The answer for this study is “no” and on that basis BAT has argued that the study found no meaningful increase in lung cancer risk – but this is a function primarily of the sample size and relatively low relative risk that the study is attempting to detect, it says nothing about the absence of an effect. However, had the test been “are we 80% confident?” the answer, *on the basis of this study alone*, would be “yes”.

But this is not the whole story of BAT’s deception. When many different studies each show similar results, that increases confidence of an effect even if no single study in itself can give 95% confidence. The process of looking at many studies together is known as ‘meta-analysis’ and increases confidence in results obtained. On top of the epidemiology, there are other types of evidence such as animal studies and biochemical data that add to the confidence in the overall conclusion. A very thorough meta-analysis was published in the BMJ in 1997^[26] (before the publication of the WHO study) and concluded:

The epidemiological and biochemical evidence on exposure to environmental tobacco smoke, with the supporting evidence of tobacco specific carcinogens in the blood and urine of non-smokers exposed to environmental tobacco smoke, provides compelling confirmation that breathing other people’s tobacco smoke is a cause of lung cancer.

This study was one of many that informed the conclusion of the government scientific committee (SCOTH). Had the WHO study been completed in time to be included in this analysis, it would have strengthened this conclusion that passive smoking causes lung cancer, not diminished it.

BAT says of active smoking: “*Our views on the health risks are largely driven by the epidemiological studies.*” But in the case of passive smoking BAT ignores the evidence of epidemiology or deliberately distorts it to serve its own public relations agenda.

There are uncertainties about some aspects of the health impact of passive smoking- for example about the magnitude of the risk of cardiovascular disease arising from passive smoking – but only because the epidemiology reveals extremely frightening non-linear dose-response relationships which suggest that a passive smoker would be at about half the risk of an active 20-day smoker, despite having just one percent of the exposure[27].

Implications for social auditing

We return to the assessment of the House of Commons Health Select Committee:

It seems to us that the companies have sought to undermine the scientific consensus until such time as that position appears ridiculous. So the companies now generally accept that smoking is dangerous (but put forward distracting arguments to suggest that epidemiology is not an exact science, so that the figures for those killed by tobacco may be exaggerated); are equivocal about nicotine's addictiveness; and are still attempting to undermine the argument that passive smoking is dangerous.17

A credible social auditor would establish if this truly is the modus operandi that BAT has towards telling the truth about the impact of its products. In addition the impact of BAT's approach to restrictions on smoking in public places and workplaces (hostility) should be assessed and some judgement made about the role that its 'scientific PR' (see below) plays in distorting science and creating controversy where there is reasonable consensus among legitimate scientists.

Negative economic impacts

One important part of a social report is an assessment of the economic impact of the industry – the extent to which its activities benefit society as a whole or for particular communities.

Tobacco has negative economic impact overall – the costs of illnesses, poverty, fires and lost productivity outweigh savings attributed to early death. If any value is placed on non-monetary values like life-years lost, pain, grief etc, then the social costs of smoking are vast.

In 1994, the World Bank estimated that the global net economic burden of tobacco consumption was \$200 billion[28] per year. BAT's market share of 15 percent, would therefore equate to some \$30 billion per year, which is over 50% greater than the value of the company and about 30 times BAT's 2001 profits.

Cost-benefit analysis for tobacco

A now infamous study commissioned by Philip Morris of the impact of tobacco on the Czech Republic's public finances[29] has been widely misrepresented as showing that tobacco had a net positive effect on the Czech economy[30] – effectively as a result of the welfare savings arising from early death outweighing the costs of additional health care for living smokers. The main response was disgust that such calculations should be used to inform tobacco policy and Philip Morris eventually apologised. However, the study actually showed exactly the opposite conclusion to that drawn by many observers.

In fact the costs outweighed the 'benefits' by 13 times[31] and the report gives costs associated with smokers while still alive of Czech Koruny (CZK) 15.7bn (\$517m) on health care, absenteeism, fires, etc. These costs compare with the CZK1.2bn "benefits" as a result of the early death of smokers from savings on pensions, health care, housing, etc. The mistake made by many commentators in interpreting the Czech study was to accept the inclusion of tobacco taxation on the benefit side of tobacco. ASH's analysis gives the figures in full[32].

Value of tobacco taxation

Taxes are sectoral *transfers* within the economy, not net economic costs or benefits. This is important in the context of BAT's social reporting because the company does like to count the taxes paid by its customers as economic benefits associated with its operations[33]:

British American Tobacco employs over 80,000 people globally and contributes nearly £14 billion a year to national exchequers worldwide through excise duties and taxes, well over 12 times as much as the Group's profit after tax.

Smokers simply provide a useful tax base for governments and high taxes aim to reduce smoking and, unlike most taxes, can be politically popular. If there were no BAT or tobacco use, governments would simply raise the same taxes on other tax bases – fuel, VAT, income, corporations etc.

Value of tobacco employment

As with taxation, the employment figures for tobacco companies should be treated carefully before any net credit can be taken. If consumers no longer purchase tobacco because they have quit or never started, then their spending power does not simply disappear, it is redirected to other goods and services, savings or investments. In many cases, the change in spending will lead to a net increase in jobs.

An assessment of the economic significance of the UK tobacco industry in terms of employment has shown that a reduction in tobacco consumption will lead to the creation of *more jobs*[34]. The study compared the actual levels of employment in the UK with the predicted levels of employment when tobacco consumption is reduced by 40%. The study found that smokers who stop are likely to spend a larger proportion of their freed expenditure on recreation, entertainment and education, resulting in an estimated net increase of 155,000 jobs in the leisure and entertainment industries.

Impact on poverty and hunger

As well as the comprehensively documented health impacts, tobacco consumption has serious impacts on the welfare of the poorest in society. Tobacco expenditure displaces other essential expenditures, including food, medical treatment and housing, which are important determinants of welfare. One study of the consumer expenditure on tobacco in Bangladesh concluded that “*tobacco expenditures exacerbate the effects of poverty and cause significant deterioration in living standards among the poor*”, and[35]:

Expenditure on tobacco, particularly cigarettes, represents a major burden for impoverished Bangladeshis. The poorest (household income of less than \$24/month) are twice as likely to smoke as the wealthiest (household income of more than \$118/month). Average male cigarette smokers spend more than twice as much on cigarettes as per capita expenditure on clothing, housing, health and education combined. The typical poor smoker could easily add over 500 calories to the diet of one or two children with his or her daily tobacco expenditure. An estimated 10.5 million people currently malnourished could have an adequate diet if money on tobacco were spent on food instead. The lives of 350 children could be saved each day.

The World Bank notes further impacts on poverty[36] – for example, the loss of income and security associated with sickness or death of the bread-winner in a household; paying for treatment for smoking related morbidity; adverse effects on the distribution of household income arising from the male tending to reserve money for tobacco from the household budget.

BAT draws attention to its ‘humanitarian’ expenditures, for example funding primary care in Pakistan and disaster relief in Bangladesh[37].

Millions of people in Pakistan live without basic medical care, sometimes resorting to unqualified medical advice which can lead to further illness or even death. That's why our local subsidiary, Pakistan Tobacco Company, is now enabling 1,600 people without access to medical care to be examined free of charge every month. To date, more than 150,000 people have benefited.

The irony hardly needs stating, but any claim that BAT makes for its social and humanitarian initiatives needs to be set against the awful social and humanitarian consequences of its mainstream activities.

Implications for social reporting

BAT's approach has been to position itself as an important economic actor. A credible social report needs to look beyond the headline figures of jobs, taxes paid and social initiatives funded and look at the real economic impact. In practice, tobacco is an economic burden on society. There are places where the economic impact, at least in the short term, is positive, but these are outweighed by the places for which it is a drain.

Negative environmental impacts

Tobacco growing and processing has numerous environmental impacts. These include deforestation, land-take threatening food security, pesticide contamination, soil erosion and deterioration, ozone depletion arising from fumigation and tobacco fluffing, the creation of toxic wastes from manufacturing and processing and litter.^[38]^[39]^[40]

In terms of impact on human society, the most serious environmental impact arises from indoor air pollution from environmental tobacco smoke (ETS). One of the most comprehensive assessments of the impact of ETS was undertaken by the California Environmental Protection Agency^[41]. This gives a toll of illness and death summarised in the following table:

Table ES.2
Estimated Annual Morbidity and Mortality in Non-smokers
Associated with ETS Exposure

Condition	Number of People or Cases	
	in the U.S.	in California
Developmental Effects		
Low birth-weight	9,700 - 18,600 cases	1,200 – 2,200 cases
Sudden Infant Death Syndrome (SIDS)	1,900 - 2,700 deaths	120 deaths
Respiratory Effects in Children		
Middle ear infection	0.7 to 1.6 million physician visits	78,600 to 188,700 physician visits
Asthma induction	8,000 to 26,000 new cases	960 to 3120 new cases
Asthma exacerbation	400,000 to 1,000,000 children	48,000 to 120,000 children
Bronchitis or pneumonia in infants and toddlers (18 months and under)	150,000 to 300,000 cases 7,500 to 15,000 hospitalizations 136 - 212 deaths	18,000 to 36,000 cases 900 to 1800 hospitalizations 16 - 25 deaths
Cancer		
Lung	3000 deaths	360 deaths
Nasal sinus	N/A	N/A
Cardiovascular Effects		
Ischemic heart disease	35,000 - 62,000 deaths	4,200 - 7,440 deaths

There are notes and a full explanation of this table available with the executive summary^[42].

ASH has not developed these calculations to cover the whole world or to assign a portion of the impact to BAT's business, but a credible social audit would attempt to assess such impacts.

Implications for social reporting

The environmental impacts of tobacco are dominated by indoor air pollution, which causes a very substantial toll of illness and death among non-smokers. Our expectation is that BAT will generally handle other environmental matters competently, with the exception of indoor air pollution and litter. However, when the product itself is so harmful, the usual justification for environmental damage – benefits to society outweighing the external costs – does not readily apply.

Misleading branding

In his speech to the 2002 annual general meeting, BAT's Chairman, Martin Broughton, made much of his commitment to producing less hazardous cigarettes:

We aspire to be the first to launch successfully a new generation of tobacco products with critical mass appeal, that over time will be recognised by scientific and regulatory authorities as posing substantially reduced risks to health.

The trouble is that BAT already markets cigarettes that appear to offer this to smokers – they are known as 'lights' and BAT has light variants for all its major brands. These products are marketed with branding that suggests they are less risky.

Understandably, many smokers are fooled by this, and draw false reassurance from it. Surveys show that smokers believe they are taking less risk when they use such products. The danger is that smokers opt for such products instead of quitting – and therefore may die prematurely as a result.

This matters from the point of view of BAT's social reporting because:

1. The company knows these products offer no meaningful reduction in risk, and has known this for decades.
2. BAT deliberately designed the products to offer false reassurance, aware of an ethical problem in misleading its customers.
3. BAT is trying to continue this deception in Europe by making a legal challenge to EU health regulation that would ban such branding by September 2003.
4. The effect is that BAT is trying to protect a deception that kills its customers. This is even worse than simply selling cigarettes – it is actively trying to divert its customers away from taking action to protect themselves. ASH has referred to this as "*the most serious consumer confidence trick of all time*".

BAT's knowledge of the ineffectiveness of 'lights'

Internal documents released through US litigation illustrate BAT's strategy in regard to 'lights'.

First, it is clear that the company suspected many years ago that the process of 'compensation' meant that light cigarettes provide no health benefit. 'Compensation' is the process by which smokers adjust their smoking pattern to achieve a given dose of nicotine – for example smokers adjust to light cigarettes by taking deeper puffs, more puffs or by sub-consciously blocking ventilation holes in the filter with fingers or saliva. The following extract of an internal document from one of BAT's top scientists shows that the company was well aware of this phenomenon.

.... "Numerous experiments have been carried out in Hamburg, Montreal and Southampton within the company, as well as many other experiments by research workers in independent organisations, that show that generally smokers do change their smoking patterns in response to changes in the machine smoked deliveries of cigarettes."

...there is now sufficient evidence to challenge the advice to change to a lower delivery brand, at least in the short term. In general a majority of habitual smokers compensate for changed delivery, if they change to a lower delivery brand." (1978)[43]

The National Cancer Institute of the United States recently published a monograph on low tar cigarettes[44] and the program leader commented[45]:

"The monograph clearly demonstrates that people who switch to low-tar or light cigarettes from regular cigarettes are likely to inhale the same amount of cancer-causing toxins and they remain at high risk for developing smoking-related cancers and other diseases."

Deliberate and continuing deception

But BAT wanted then, and still wants today, to provide reassurance to smokers and 'light' brands for a major segment of the market. Another document exhibited during legal action in the United States explains the strategy:

"All work in this area should be directed towards providing consumer reassurance about cigarettes and the smoking habit. This can be provided in different ways, e.g. by claiming low deliveries, by the perception of low deliveries and by the perception of "mildness". Furthermore, advertising for low delivery or traditional brands should be constructed in ways so as not to provoke anxiety about health, but to alleviate it, and enable the smoker to feel assured about the habit and confident in maintaining it over time."(1977)[46]

BAT even recognised that it was acting unethically, but pressed ahead regardless.

"Elastic/ Compensatable Products - Irrespective of the ethics involved, we should develop alternative designs (that do not invite obvious criticism) which will allow the smoker to obtain significant enhanced deliveries should he so wish".(1984)[47]

The use of light branding continues today as important variants on BAT's main 'driver' brands – Lucky Strike Lights, Pall Mall Lights, Dunhill Lights, Kent Lights. In August 2001, BAT initiated legal proceedings to overturn directive 2001/37/EC, which imposes a ban on misleading branding –citing the following among its many complaints about the directive[48]:

... prohibits the continued use of descriptors such as 'light' or 'mild', which help consumers to recognise lower yield products, have helped the consumer trend towards using them, and help consumers differentiate between different taste attributes.

Implications for social auditing

BAT is using legal action to protect a marketing gambit that it uses to offer reassurance to smokers that it knows to be false, but will help to keep them smoking – and hence dying prematurely. It is hard to see this as other than deliberately killing its customers as it is taking actions that make the unavoidable problems with its product more widely felt. Any credible social audit must look at whether BAT runs its business in such a way that it misleadingly reassures its customers and in effect promotes additional smoking.

False youth smoking prevention initiatives

A key component of BAT's proposition on social responsibility is that it does not wish to sell to young people and that it runs campaigns in most of the countries in which it operates to discourage youth smoking[49].

British American Tobacco strongly believes that children should not smoke, and that smoking should only be for adults who understand the risks associated with it. Our Group companies support and run programmes world wide tackling under-age smoking, and we are committed to pooling our resources and experience globally with others in the tobacco industry – and with governments and NGOs – to help prevent youth smoking. Along with the other two largest international tobacco groups, our Group companies fund and support over 130 Youth Smoking Prevention programmes in more than 70 countries, and our efforts continue to grow.

BAT's youth smoking initiatives

The tobacco industry's campaigns have three main dimensions:

1. 'Youth access' – enforcing laws that prevent retailers selling to under-age smokers;
2. 'Responsible marketing' – BAT and other companies have agreed a code which they claim amounts to responsible marketing for their products[50];
3. 'Counter-marketing' – BAT pays for advertising aimed at persuading young people not to smoke.

Many observers have uncritically accepted this as responsible corporate behaviour without carefully examining the evidence for such campaigns and the possible motives of a tobacco company in running them.

Youth access programmes: Ling et al (2002)[51] give a good account of the weakness of youth access programmes, and comment on the tobacco industry's preference for them as follows:.

Youth access programmes have also been widely supported by the tobacco industry, perhaps because they reinforce the industry's key marketing message that "smoking is for adults", which arguably makes smoking even more attractive to teens.

Focus group research conducted for ASH showed that teenagers regard youth access restrictions with contempt and developed sophisticated strategies for overcoming them[52].

Responsible marketing: the problem with marketing codes that purportedly aim to restrict marketing that appeals to children is that they aim to permit advertising that appeals to 18-24 year olds – and it is impossible to isolate this from appeal to younger kids. The best evidence shows that advertising restrictions are effective in reducing consumption only when they are comprehensive. A thorough review by Saffer and Chaloupka (2000)[53] concluded:

That comprehensive advertising bans can reduce tobacco consumption, but that a limited set of advertising bans will have little or no effect. A limited set of advertising bans will not reduce the total level of advertising expenditure but will simply result in substitution to the remaining non-banned media

Most public health authorities now advocate a complete ban on tobacco advertising as the major public policy approach to tobacco marketing. The responsible marketing codes are in effect an attempt to allow *laissez faire* for most forms of tobacco marketing; promotional budgets will simply move from the banned to the not-banned media and promotional approaches. The analyst community was reassured that the marketing code would make little difference. Bonnie Herzog, tobacco sector analyst of CSFB at the time argued[54]:

We [...] believe that the multinationals' strategy is proactive and is a way to improve their image. These international marketing standards partly came as a result of increasing pressure from governments worldwide and anti-smoking activists. Also, by proactively setting new international tobacco marketing standards, the multinationals could be trying to counter a number of proposals that the WHO has been working on to curb the amount of cigarettes that are consumed on an international level.

One would think that the elimination of certain marketing practices would effectively decrease advertising spending and hence increase margins, however we believe the modest amount the

multinationals actually spend on these types of practices will be redirected into other types of marketing promotions i.e., point of sale activity.

Counter-marketing: the campaign approaches chosen for tobacco industry youth smoking prevention without fail draw on the weakest most ineffectual messages, and concepts – usually stressing ‘personal choice’ or that smoking is for adults only. Note the emphasis in BAT’s programme:

However, through harnessing the expertise and understanding of all interested parties – including government, retailers, parents, teachers and young people themselves – we hope to ensure that YSP [youth smoking prevention] programmes are accepted and successful.

But this is the exact opposite of the techniques used to sell cigarettes. BAT owns a Formula One team, British American Racing, and uses one of the world’s fastest drivers and high tech sports to promote its product[55]. BAT’s promotional web sites are the epitome of cool[56]. Why does BAT favour the use of boring authority figure to oppose smoking, but the glamour of F1 to promote it? Might it be that the latter works and the former does not?

Problems with youth smoking prevention initiatives

In summary, the many problems with these campaigns can be grouped under three headings:

1. The messages used are ineffective, and if anything likely to encourage smoking

- By focussing on smoking as an adult activity, they increase the definition of smoking as adult or rebellious and make it more appealing to young people;
- BAT uses much more effective techniques and persuasive role models to promote smoking than it uses to promote ‘prevention’;
- There is virtually no evidence that these campaigns work – and BAT has never presented an evidence base or credible evaluation to demonstrate that its programmes have any impact;
- BAT never supports and always opposes measures that are known to be effective in reducing youth smoking, like increased taxes and advertising campaigns based around vile imagery, addiction or the misconduct of the tobacco industry;
- Young people easily circumvent restrictions on their liberty and reject adult authority, for example a focus group study commissioned by ASH showed older teenagers can buy cigarettes and sell to younger kids making a small commission;
- Even if all the limitations above could be overcome, it is simply impossible to construct advertising that appeals to 18-year olds, but has no impact on 12-17 year olds, especially as advertising to this age group generally involves looking more ‘grown-up’ than the age of the target audience.

2. The main objective is public relations

- Documents from elsewhere in the industry note how YSP measures have been conceived to head off legislation that would be effective and therefore unwelcome – like the complete bans on tobacco advertising widely supported in the European Union. For example, the following comment is from a Philip Morris confidential document[57]:
“As we discussed, the ultimate means for determining the success of this program will be: 1) A reduction in legislation introduced and passed restricting or banning our sales and marketing activities; 2) Passage of legislation favorable to the industry; 3) greater support from business, parent, and teacher groups.”
- The offer of money to health ministries enables BAT to shape their public health initiatives in a way that suits BAT – ie. ineffective youth smoking prevention initiatives that detract from meaningful tobacco policies;

- The initiatives come with considerable reputation-building public relations budgets, they are about appearing to be responsible, rather than actually being responsible (BAT recently sent videos of its MTV campaign to all MPs and MEPs);
- BAT has ignored all the advice and evidence that has been put to it regarding the points above and refused to comply with ASH's request that they abandon these programmes completely.

3. 'Youth smoking' is the wrong target anyway

- The YSP initiatives aim to define the 'problem' of smoking as simply young persons' issue, whereas the bulk of the harm is done to addicted adult smokers struggling to quit. We regard the welfare of addicted adult smokers as equally important;
- Even if the objective was only to reduce youth smoking, the best way to tackle youth smoking is to 'de-normalise' smoking in adult society. Teenagers want to do what they regard as normal in adult society, and BAT's approach aims to keep smoking as a widespread adult activity;
- The best evidence suggests that marketing restrictions are ineffective at reducing total consumption, and hence total harm, unless they are comprehensive. BAT's marketing code should really be judged by what it permits rather than what it bans;

A study published in June 2002 examined the motives and impact of tobacco industry youth programmes and is summarised as follows^[58]:

Objectives. This report describes the history, true goals, and effects of tobacco industry-sponsored youth smoking prevention programs.

Methods. We analyzed previously-secret tobacco industry documents.

Results. The industry started these programs in the 1980s to forestall legislation that would restrict industry activities. Industry programs portray smoking as an adult choice and fail to discuss how tobacco advertising promotes smoking or the health dangers of smoking. The industry has used these programs to fight taxes, clean-indoor-air laws, and marketing restrictions worldwide. There is no evidence that these programs decrease smoking among youths.

Conclusions. Tobacco industry youth programs do more harm than good for tobacco control. The tobacco industry should not be allowed to run or directly fund youth smoking prevention programs.

Implications for social auditing

ASH provided a detailed report, *Danger! PR in the playground*, on these questions to BAT's social auditors^[59]. The social audit cannot simply take BAT's word that its intentions in YSP are honourable and genuine. It should challenge the company to show that the arguments and criticisms set out above (and provided to the auditors in May 2001) are invalid and that its programmes are not what the health organisations and researchers say they are – deliberately ineffective and self-serving PR.

Among the most absurd example of BAT's youth smoking prevention initiatives is its Malaysian campaign. The company is using English Premier League football and superstars, the FA Cup and the World Cup to promote its Dunhill brand – including internet and TV-based promotions that will reach teenagers of every age^[60]. At the same time BAT has a youth smoking prevention programme in Malaysia featuring a young boy in football kit giving the message "He's a wizard with a football. He's talented. He's cool. He doesn't smoke."^[61] Which is the more persuasive? This picture from Malaysia highlights the absurdity of BAT's position world-wide – tokenistic and ineffective YSP programmes that cover powerful and persuasive marketing in favour of smoking.

Smuggling

Cigarette smuggling is a very large-scale business, with perhaps one third of all internationally traded cigarettes entering the black market[62]. The tobacco companies benefit because they sell the cigarettes to the wholesalers, the product may be sold cheaply to the consumer or in contravention of import restrictions. This deflates the tax incentive not to smoke and helps to keep customers smoking, defraud finance ministries, circumvents consumer protection laws, and undermines the sound health and fiscal policy of raising tobacco taxes, a policy strongly advocated by the World Bank[63].

BAT has been orchestrating smuggling of its products for many years. The black market has been viewed within the company as an important distribution channel. Internal documents show that the company treats the black market like business-as-usual – with pricing strategies, product launches and withdrawals, marketing campaigns, middle-men, distribution franchises, and end-market control – all in illegal sales. The company has used smuggling to enter markets closed to it (notably China and Vietnam), to fight price wars with its major competitors, to build market share against low cost local producers and to undermine domestic tobacco tax policy. By facilitating the actions of criminal mafia, BAT has indirectly supported money laundering and the illegal drugs and arms trade, and some vile warlords.

ASH presented evidence to the House of Commons Health Select Committee[64] and wrote to BAT's Deputy Chairman demanding an explanation for documents that clearly implicate the company in the active management of smuggling[65]. Investigative journalists have amassed an impressive case against BAT[66] [67] [68]. Having reviewed the evidence and conducted oral hearings, the House of Commons Health Select Committee recommended that the Department of Trade and Industry launch a Companies Act investigation to examine the documentary evidence and BAT's conduct[69]. In the light of this report, and following continuing concern in parliament[70], on 30 October 2000, DTI inspectors entered BAT's offices and commenced the investigation[71]. The investigation is ongoing.

The documents show that BAT's role in smuggling is not to carry out the substantive illegal acts, for example by driving trucks through Customs posts or bribing officials. The documents indicate a management and controlling role over the black market in its own products, in much the same way that it controls the legal market in its own products without actually owning all participants in the distribution chain. In the black market, BAT organised product launches and withdrawals, set prices specific to the black market, appointed and directed middlemen to supply smugglers, applied end-market control disciplines (to prevent smuggled goods appearing where BAT did not want them) and undertook promotional activity aimed at boosting sales in the black market.

Racketeering and money laundering

As well as the DTI investigation, BAT faces racketeering legal action from the State Governors of Colombia, backed by a consortium of American law firms. The filing in the case allege that BAT controlled a 'smuggling enterprise':

28. *Beginning in the late 1970s and continuing through the present day, the PHILIP MORRIS DEFENDANTS and BAT DEFENDANTS, in conducting one of their primary businesses of selling tobacco products worldwide, have launched and conducted a consistent and concerted campaign to increase their respective market shares in the countries in which their products are sold.*
29. *To accomplish this end, the PHILIP MORRIS DEFENDANTS and the BAT DEFENDANTS have actively engaged in smuggling activities, and concealed such conduct, through illegal acts, including money laundering, wire fraud, mail fraud, and other violations of United States law. Defendants have controlled, directed, encouraged, supported, and facilitated the activities of smugglers. Defendants have collaborated with smugglers, encouraged smugglers, and, directly and indirectly, sold cigarettes to persons and entities who they know, or had reason to know, were smugglers, while at the same time supporting the smugglers' sales through the establishment and maintenance of so-called "umbrella operations" in the target jurisdictions. "Umbrella operations" are legal routes for distribution of duty-paid cigarettes that enable the import of a small volume of cigarettes by Defendants into THE*

DEPARTMENTS OF THE REPUBLIC OF COLOMBIA, while serving the overarching purpose of providing cover for, and otherwise concealing, the Defendants' massive smuggling of contraband cigarettes into THE DEPARTMENTS OF THE REPUBLIC OF COLOMBIA. By such acts, among others, the Defendants embarked upon and pursued a scheme to smuggle cigarettes on a worldwide basis, including within THE DEPARTMENTS OF THE REPUBLIC OF COLOMBIA, in order to deprive Plaintiffs of money and property, while increasing the sales of their products, profits, and market share, and enhancing the value of their tobacco operations. The PHILIP MORRIS DEFENDANTS and the BAT DEFENDANTS have engaged and continue to engage in smuggling schemes by which smugglers and money launderers in Europe, Panama, the Caribbean, Colombia, and the United States collaborate with the Defendants for the purpose of smuggling cigarettes into THE DEPARTMENTS OF THE REPUBLIC OF COLOMBIA.

The detailed filing^[72] backs these allegations with more specific information and gives a good overview of the arguments that BAT faces.

The case is currently stalled over technicalities, which are being addressed in other similar cases brought against other companies. The cases have been dismissed over 'the revenue rule', an old US statute that does not allow foreigners to collect unpaid overseas taxes in the US courts. However, the cases are far from over. The revenue rule decision is under appeal and it is likely that the arguments and evidence will shortly be re-filed as money laundering cases.

Implications for social auditing

This information was made available to BAT's social auditors, and it is difficult to see how a 'social audit' can be undertaken without getting to the bottom of such serious allegations that link the company to organised crime, money laundering and the drug trade. Yet it is also unlikely that BAT would assist in such scrutiny, given the legal action it faces.

In the context of the current stakeholder dialogue, the question arises as to how BAT has responded and how it is conducting its business now. ASH wrote to Rupert Pennant-Rea, chairman of BAT's audit committee, who is responsible for compliance with London Stock Exchange guidance on internal control, asking him to make good BAT's own promise to conduct an internal inquiry and to ensure that smuggling related risks are properly managed within the company's system for internal control^[73]. Once the DTI began to investigate, BAT cancelled its own review – suggesting that the purpose was to forestall a DTI inquiry rather than to properly control its own risks – and then refused to comment on the issue.

BAT's position on smuggling, *Smuggling our view*^[74], was set out in response to the inquiry of the House of Commons Health Select Committee. It included the following comments:

Smuggling damages our business. We would make more money in the long term if it could be eliminated. We would like every market to be entirely rid of it.

Only governments can tackle smuggling effectively. No international business operating through distributors can control every subsequent link in diverse and myriad secondary supply-chains.

However, on 5 December 2001 BAT issued a profits warning^[75] in which part of the explanation for reduced volumes was measures taken to control smuggling:

This continued growth should be achieved despite an expected reduction of some 2-3% in volumes in 2002. Economic conditions will have an impact on Group performance in the coming year and the Group's operational management have reviewed their procedures and decided to apply even more stringent criteria for the supply of products to trade customers, especially in the area of duty-free sales.

This suggests that BAT does benefit from smuggling, at least in the medium term, and does have the means to exercise control over its distributors. Other documents show that BAT used smuggling as a weapon in its battles

for market share and market penetration, entirely to its own competitive advantage. In fact, it is clear that BAT exercises very tight control over its distribution system for very simple business reasons – to prevent grey markets in its own products undermining its own marketing strategies, and to ensure that its distributors are competing with BAT competitors and not with each other. Despite denying it can control its distribution chain, documents and experience show that it can if it chooses to.

Price fixing

Not only does BAT collude with smugglers through middlemen, there is clear documentary evidence that BAT engaged in collusion with its main rival, Philip Morris, to fix prices and make market share agreements. A secret meeting of BAT and Philip Morris was held in a hotel in Southern England in 1992 and minutes of that meeting as taken by BAT are now in the public domain[76].

The question of price-fixing by BAT was investigated by *The Economist* which reported on 5th July 2001:[77]

The Economist has seen documents that suggest the big tobacco multinationals colluded to fix prices in as many as 23 countries in Africa, Asia, the Middle East, Latin America and Europe. All of the documents come from the archive that BAT, the world's most international tobacco company, set up in Guildford, England, following the Minnesota settlement. But although they are internal BAT memos, they also suggest the involvement of its main competitors in price collusion.

Implications for social auditing

One of the participants in the meeting, Keith Dunt, went on to become BAT's Financial Director. Dunt is also implicated in many of the documents that relate to BAT's management of tobacco smuggling. Mr Dunt announced his early retirement in 2001, but his rapid promotion does suggest that involvement in these activities did his career no harm, at least until the documents detailing it all became public.

The question for the social audit will be whether this practice continues and what measures BAT has undertaken to prevent its employees negotiating prices or market share agreements with competitors. BAT has had little to say about the expose in *The Economist*, but it needs to do more than simply assert that this practice does not continue today. There are good reasons to expect price fixing to continue unless measures are taken to stop it: an obvious profiteering motive; high market concentration in many markets; reward in pay and promotion for the higher margins attained; and a demonstrated track record in collusion in the 1990s.

Given that BAT's sales people, territory managers and corporate executives all have interests aligned with collusion – providing they are confident they can get away with it – then it is clear active intervention is necessary. The alternative may be more profitable, but it is certainly unethical and in many jurisdictions it is illegal. There is no supra-national law that prevents British and American Multi-nationals meeting in England to fix prices in South America. However, the OECD's guidance to multinational corporations[78] requires:

IX. Competition

Enterprises should, within the framework of applicable laws and regulations, conduct their activities in a competitive manner. In particular, enterprises should:

1. Refrain from entering into or carrying out anti-competitive agreements among competitors:

- a)_ To fix prices;*
- b)_ To make rigged bids (collusive tenders);*
- c)_ To establish output restrictions or quotas; or*
- d)_ To share or divide markets by allocating customers, suppliers, territories or lines of commerce;*

2. Conduct all of their activities in a manner consistent with all applicable competition laws, taking into account the applicability of the competition laws of jurisdictions whose economies would be likely to be harmed by anti-competitive activity on their part.

3. Co-operate with the competition authorities of such jurisdictions by, among other things and subject to applicable law and appropriate safeguards, providing as prompt and complete responses as practicable to requests for information.

4. Promote employee awareness of the importance of compliance with all applicable competition laws and policies.

There is no outward sign that BAT has done any of this or that it has acknowledged past wrong-doing with regard to price fixing. Any social audit – and indeed BAT’s system of internal control - must address anti-competitive, illegal or quasi-illegal practices including but not limited to price fixing.

Shredding documents

BAT faces very substantial litigation – over 4,000 cases in the US and further cases in 17 other jurisdictions^[79]. However, the company has committed one of the gravest errors a defendant can make – it has been caught deliberately destroying evidence that, in the view of the Australian court that made the ruling, would deny a lung cancer victim access to justice. In the case of Mrs Rolah McCabe, a 51-year old lung cancer victim, the judge found that BAT’s document retention policy had been designed to destroy sensitive documents and took the strongest possible sanction – he struck out BAT’s defence in its entirety and awarded the verdict to Mrs. McCabe in March 2002. Mrs. McCabe was subsequently awarded damages of A\$700,000. Justice Eames’ judgement runs to 133 pages of close analysis of the evidence^[80]. Eames concludes:

274. The predominant purpose of the document destruction was the denial to plaintiffs of information which was likely to be of importance in proving their case, in particular, proving the state of knowledge of the defendant of the health risks of smoking, the addictive qualities of cigarettes and the response of the defendant to such knowledge.

There is little ambiguity about the facts set out at length in the judgement. BAT and its lawyers knew what they were doing, and the risks they were taking.

68. On 21 February 1992 Ms Chalmers was to discover that the question of document destruction had not gone away. In a multi-party phone hook up with Northrip, Andrew Foyle (the UK solicitor), Schechter and Stuart Charfon (a solicitor with BATCO), she recorded discussion under the heading “Dispose of Documents”. She noted Northrip opening by saying that “Pro is you get rid of them”, but the “con” was “plaintiff’s firm may persuade courts to more readily allow discovery from BATCO or order Wills to get other documents or a sanction will be imposed”. Her notes record that he added:

“Aust firms believe both of those will be very difficult. More likely course will say Wills acted improperly and sanction Wills. Greatest sanction would be deny a defence. Also sanctions against the solicitors involved.”

The ‘greatest sanction’ is exactly what came to pass in Justice Eames’ court room.

The document destruction is not distant history and continued until at least 1998, with most of the 30,000 documents relating to an entire earlier case all being destroyed in 1998 even though such documents are self-evidently relevant to any future litigation. Their destruction was sanctioned at the highest level and with the agreement of BAT’s headquarters and London-based lawyers.

BAT’s misleading spin following the judgment

BAT reacted very rapidly to publication of the judgement to calm investors’ nerves in the City of London and tried to play down the implications^[81]. However, the implications are very serious:

- BAT reportedly argued that the implications of the judgement were specific to the McCabe case. *Not true*. The destroyed documents were not specific to McCabe, but related to BAT’s positions on smoking and

health, marketing etc. Any victim of smoking related disease in Australia could use the same arguments and seek to have BAT's defence struck out. There is a potentially open ended liability. There are aspects of the judgement that *are* specific to the conduct of BAT and its lawyers in relation to this case, however the most important finding has wide generic application.

- BAT reportedly argued that the case does not have implications beyond Australia. *Not true*. The BAT employees in Australia were implementing a corporate wide policy directed from London. The same policy, now exposed in the court in Australia, was operating in most if not all of BAT's operating companies. Since the McCabe judgement, the US Department of Justice has been taking depositions from BAT employees – including some of the most senior executives – over the document destruction policy. For lawyers in other jurisdictions, the destruction of evidence opens a new legal front in their efforts to seek justice for victims of smoking related disease.
- BAT reportedly argued that it has not breached any statutory obligations. *True, but a non-sequitur*. Legislation does prescribe retention requirements for tax and accounting purposes, for example. But the requirement not to destroy evidence in relation to litigation is a civil matter and not set out as statutory obligations. The conduct of individuals could become a criminal matter.
- BAT reportedly argued that no-one was found guilty of contempt or attempting to pervert the course of justice. *True, but only so far*. The McCabe case is a civil action to claim damages and therefore it was never possible to hear criminal charges. These may follow later.
- BAT reportedly argued that the damages were small and manageable. *True, but not a reason for reassurance*. The damages in the McCabe case are quite small compared to some awards in tobacco cases. However, for tactical reasons the plaintiffs decided not to apply for exemplary (punitive) damages, which could have been many times higher. Furthermore, the jury were unaware of the circumstances of the case, including the document destruction, and had been given minimal exposure to the plaintiff's case. Future awards could be much higher.

Implications for social auditing

The question for the social audit is whether BAT's business practices have been designed to prevent those injured or killed by its products and its conduct in the past having access to the evidence that would allow them to have their case made and be properly compensated. One might imagine the furore had a company like Railtrack been found to be destroying documentation that might show its responsibility for railway accidents. It is worth reflecting on the outrage that has greeted the shredding of documents by Anderson in the Enron affair – lots of money was lost, but no lives were at stake. The documents in the Anderson / Enron case related to highly unusual exotic financial transactions, whereas the documents destroyed by BAT related to business-as-usual in the tobacco industry and human disease and death.

Further questions arise about BAT's approach to briefing its shareholders – much of what BAT told the City and shareholders at the AGM was highly misleading.

Unethical public relations

BAT uses aggressive and sometimes deceitful public relations to shape the public policy process and institutions to its advantage. On matters of mutual interest the tobacco companies often co-operate with other, either bilaterally or through trade associations or front groups. Three case studies are presented below.

Undermining legitimate science

The approach taken by BAT to the WHO/IARC report on passive smoking (see above) should be examined very closely in any social reporting. A study of confidential tobacco industry documents shows it to be part of an extraordinary public relations effort dedicated to undermining the legitimate scientific process[82].

The complex plan relied on third-party vehicles that did not reveal the extent of the industry's efforts to shape the scientific, communications, and government relations issues of secondhand smoke on a worldwide basis. Such long-term programmes, from scientific consultants to "sound science" coalitions to GEP seminars, were instituted to influence the scientific basis of policymaking and public perception on second-hand smoke more in favour of the industry. BAT's March, 1998, media event represented only the first public manifestation of the industry's effort. BAT took advantage of IARC publishing the study's results without an accompanying conclusion in its biennial progress report, and timed its efforts to undermine the credibility of the UK Scientific Committee on Tobacco and Health report on second-hand smoke, which was released a few days later.

Undermining EU policy

Researchers have analysed hundreds of internal documents to understand the role played by BAT and other tobacco companies in preventing meaningful tobacco advertising legislation passing[83].

The tobacco industry lobbied against Directive 98/43/EC at the level of EC member state governments as well as on a pan-European level. The industry sought to prevent passage of the directive within the EC legislature, to substitute industry-authored proposals in place of the original directive, and if necessary to use litigation to prevent implementation of the directive after its passage. The tobacco industry sought to delay, and eventually defeat, the EC directive on tobacco advertising and sponsorship by seeking to enlist the aid of figures at the highest levels of European politics while at times attempting to conceal the industry's role.

Some of this involved legitimate lobbying, but some involved influence and tactics way beyond what is acceptable.

Undermining the WHO

A similar industry-wide assault in which BAT played a major role was uncovered by a panel of experts appointed by the Director General of the World Health Organisation. The panel investigated the role of the tobacco companies in undermining or diverting the WHO's public health agenda[84]. The panel concluded:

All evidence gathered by the Expert Committee came from tobacco industry documents themselves. The Committee found that the tobacco industry regarded the World Health Organization as one of their leading enemies, and that the industry had a planned strategy to "contain, neutralise, reorient" WHO's tobacco control initiatives. Tobacco industry documents show that they carried out their plan by:

- staging events to divert attention from the public health issues raised by tobacco use;*
- attempting to reduce budgets for the scientific and policy activities carried out by WHO;*
- pitting other UN agencies against WHO;*
- seeking to convince developing countries that WHO's tobacco control program was a "First World" agenda carried out at the expense of the developing world;*
- distorting the results of important scientific studies on tobacco;*
- discrediting WHO as an institution.*

Despite BAT's repeated call for 'sensible regulation', it has been heavily criticised for the approach it has taken to the WHO. After BAT's Chairman, Mr. Martin Broughton, referred to WHO as 'zealots' and a 'super-nanny', the House of Commons Health Select Committee was scornful of Broughton's 'bizarre' behaviour[85].

We welcome the Framework Convention proposed by the World Health Organisation and the Government's support for it. However, any success will be dependent on a responsible approach being taken by the tobacco companies. Depressingly, there is little sign of that in the cheap jibes made at the WHO's expense by BAT. To call an organisation committed to improving global health 'zealots' and a

'super-nanny' because of its concern about the 10 million deaths which will be caused by tobacco each year by the late 2020s seems to us bizarre. We hope that the other companies - and, belatedly, BAT - will work constructively with the WHO.

Implications for social reporting

Every company engages in public affairs and lobbying and tries to have its views properly considered in the policy-making process and media. However, the question is what is the dividing line between acceptable and unethical. There is clear evidence of dishonesty, covert behaviour and excessive influence. A credible social report would examine BAT's modus operandi in public affairs and judge whether it is fair and ethical.

Human and labour rights

These are the more usual concerns of social and environmental reporting, and they are important. However, we believe that the unique qualities of BAT's product and its business practices in marketing and defending its product dominate the impacts of its business on society. In fact we would expect BAT to have a good record on those aspects of its business that it can more easily control, if only to counter-balance its more fundamental difficulties with other issues.

Human rights

Perhaps the most fundamental human right is the right to life. The European Convention on Human Rights (1950) and UN Universal Declaration of Human Rights (1948) define the right to life above all else.

ARTICLE 2 RIGHT TO LIFE[86]

1. *Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*

ARTICLE 3[87]

Everyone has the right to life, liberty and security of person.

The question is, what responsibility does BAT bear for the estimated 1 million per year that are likely to die as a result of using its product? We argue that there are a number of actions (marketing, smuggling, deceptive branding) that BAT takes that do increase the consumption of tobacco and therefore the death toll – BAT knows or ought to know that its actions do lead to loss of life. The addictive product can also be seen as a violation of human rights that emphasise free will and freedom of thought (for example, UDHR article Art 18).

Labour rights

BAT's record on labour was questioned recently in a report by Christian Aid, which conducted detailed research among tobacco growers in Brazil working under contract to BAT's Brazilian subsidiary[88]. The research alleges that BAT mistreats its growers, arguing:

small-scale, family farmers under contract to Souza Cruz, British American Tobacco's Brazilian subsidiary, have revealed fundamental problems in the relationship between tobacco company and grower. Farmers are sold pesticides by the company, which they use on their crop. But many suffer an annual catalogue of illnesses linked to the tobacco-growing season. Experts consulted by Christian Aid believe their symptoms indicate pesticide poisoning.

BAT denies this and has responded to Christian Aid's criticisms – ASH is not in a position to judge who is right. BAT also participates in the Elimination of Child Labour in Tobacco Growing (ECLT) Foundation[89].

Implications for social reporting

BAT appears to be committed to the eradication of child labour from its operations and the tobacco industry generally. This is commendable and important, but it has to be seen in perspective with other human rights issues. BAT's business deprives its customers of their right to life, and depends on recruiting children to smoking and nicotine addiction (around 90% of smokers start before age 18 and few adults take up the habit). As Dr. Gro Harlem Brundtland, Director General of the World Health Organisation says[90]:

The Convention of the Rights of the Child, our moral obligations, and plain, national-economic logic all commit us to do our utmost to prevent millions of children and young adults becoming victims of the tobacco epidemic

BAT in action

One of the challenges facing a social auditor is to be able to know what is going on in practice in the countries in which BAT is operating.

1. Malaysia – World Cup 2002

Despite FIFA's best efforts to keep the World Cup out of the grasp of the tobacco industry, British American Tobacco still exploited the event in developing countries. To sidestep FIFA's 'smoke-free soccer' initiative BAT will be sponsoring the *television coverage* of the World Cup 2002 matches in Malaysia to promote its Dunhill brand and capitalising by advertising its coverage in newspapers[91]. This means BAT branding will appear on TV, where it will be viewed by thousands of Malaysia's fanatical young football fans. TV advertising for cigarettes is banned in Malaysia. FIFA's Director of Communications, Keith Cooper was clearly upset by BAT's co-option of the World Cup[92].

... the manner in which BAT has been promoting its association with the World Cup-an association which does not exist despite its agreement with the [Malaysian] League -and also its flagrant misuse of players' images is indicative of the ruthless tactics the company is prepared to adopt in order to try to deceive the public.

Not only is BAT abusing the organisers of the World Cup, it is even contradicting its own guidelines on 'responsible marketing'. BAT acknowledges that the sponsorship of TV coverage will violate its own guidelines, but uses the excuse that the guidelines don't come into effect until December 2002[93]. BAT has said it will no longer sponsor TV coverage of football, but not until after the World Cup is over. The head of Europe's largest cancer charity, the Nobel prize winner Sir Paul Nurse wrote to BAT to ask it to justify undertaking marketing activity in June that it will deem unacceptable in December and to take the campaign off the air, writing off the money[94]. BAT declined to do either.

Mary Assunta of the Consumers' Association of Penang describes the impact in Malaysia [95]

Malaysians will be overwhelmed by a different message for World No Tobacco Day celebration this year. WHO' message of "Tobacco free sports" will be lost to us because BAT has filled our mass media with a different message - positive association of tobacco with our number one sport, football. BAT is telling Malaysians how lucky we are that Dunhill is sponsoring the telecast of the World Cup. In fact the bombardment of Dunhill's sponsorship has already started in all the media. This is a cruel twist of irony for us as the World Cup kicks off on the same day as World No Tobacco Day. Malaysians don't know that FIFA has a tobacco-free policy and the rest of the world will enjoy a tobacco-free World Cup. This seems to seal the fact that Malaysia is indeed the world capital for indirect advertising, where BAT controls football and even FIFA is incapable of implementing its tobacco-free policy in Malaysia. BAT has sabotaged WHO's message to Malaysians this year – football should be tobacco-free.

BAT controls 70% of the cigarette market in Malaysia and Dunhill is the number one selling brand with 40% of the market. Dunhill has controlled football for many years, sponsoring main league matches, national games and the telecast of international tournaments.

But BAT claims to be a socially accountable corporation, among others, concerned about youth smoking and providing meaningful information to consumers. This is double talk. This is clearly illustrated in its “On top of the World –Without Smoking” campaign, which it claims to be a youth smoking prevention campaign. This campaign was launched last year through the Confederation of Malaysian Tobacco Manufacturers, and a build up to the series of dialogue sessions it had with government officers and health professionals and citizens organizations. BAT’s series of adverts in the media included one with a Malaysian child football protégé who chooses not to smoke. Yet on the other hand BAT spends millions relentlessly advertising Dunhill with football, and sponsoring the telecast of local and international football tournaments which reaches the whole country, including children.

2. Niger – World Cup 2002

BAT is also sponsoring football and heavy promotional activity in Niger. Inoussa Saouna of SOS-Tabagisme describes the impact:[\[96\]](#)

In 1996, BAT signed a 10 year contract with the Soccer Federation of Niger (Fédération Nigérienne de Football FENIFOOT). This contract ensures the promotion of BAT Rothman cigarettes in soccer fields throughout Niger.

In 1998 BAT built 7 “New Line” pavilions and placed them strategically in Niamey’s intersections, even in front of schools. These pavilions are a gathering place where youth congregate, play and have access to cheap cigarettes.

It is in those pavilions that BAT will broadcast live matches of the World Cup 2002 on giant screens.

This year, the World Cup will be kicked off on May 31, the same day as the World No Tobacco Day, whose theme for this year is “Tobacco-Free Sports”.

Unfortunately BAT’s marketing behaviours will ensure that children will be bombarded with pro-tobacco messages during World Cup 2002 events. The WHO’s message of “Tobacco free sports” will be lost in Niger because BAT is creating a positive association between tobacco and Niger’s number one sport, soccer.

BAT’s claims of being socially responsible are a cruel joke, and unfortunately, its use of soccer to peddle cigarettes is only one of the many outrageous practices BAT uses outside of the U.K.

In Niger, the decree N° 042/MCT/T SEC/CC of October 6 1992 prohibits the advertisement of tobacco products on all media such as newspapers, radio, television and billboards.

Nonetheless, BAT has decided to violate the decree and continue advertising its products. BAT has 14 electric billboards advertising its cigarettes in Niamey and 75 kiosks in the provinces that are in violation of Niger regulations.

What kind of social responsibility is this?

3. Beach volleyball in Gambia

Even in countries where BAT already claims to operate within its marketing principles the reality is little better. In September 2000 a BBC investigation found that BAT was actively targeting young people and teenagers in Africa through sponsorship of beach volleyball[\[97\]](#).

‘Cigarettes are being handed out free at youth events specially organised by tobacco firms during school holidays. The companies insist they only give the samples to adult smokers, but there’s evidence their own rules are not being followed. The investigation is a further blow to an industry already dogged by accusations of dirty tricks and dubious marketing techniques, particularly in developing countries.’

The BBC report captured BAT workers giving free cigarettes to youths who clearly appeared to be under 18.

Yellow Benson and Hedges [a BAT brand] banners were everywhere and so were young women in B&H t-shirts handing out free cigarettes in the crowd. Tobacco companies say they don't give samples to under-eighteens. But as the women helped youngsters light up many appeared under-age and no-one checked their age. One of the cigarette reps said the age limit was only fifteen before quickly correcting herself."

Later, in a Newsnight interview with BAT-Africa manager Bob Fletcher, the BBC accused BAT directly^[98]: *this shows absolutely, categorically, clearly what you are all about – which is increasing the consumption of cigarettes among young people in the developing world"*

BAT was pressed to say what action it would take. Mr Fletcher admitted *"the action could result in that person [the cigarette girl] being dismissed"*

Sacking one cigarette girl for doing her job cannot possibly be anyone's idea of a socially responsible marketing code in action. BAT see things differently.

They [BAT] insist their own rules haven't been broken, but there's no sign of an end to marketing techniques that clearly target young people in the third world.'

3. Smoking parties in South Africa

A further example of BAT's marketing code in practice is provided in the September 2001 IATH Bulletin which ran an article on the 'Smoking Parties' BAT sponsors in South Africa.

"BAT, which supplies about 95% of the [South African] market, earlier this year began running parties for "adult smokers" at venues in the countries four biggest cities. People attending the parties, which feature music performances by top artists, are mainly young, and attendance has reportedly quadrupled since the parties were first held'.^[99]

The South African National Council Against Smoking (NCAS) argues this is in contravention of amendments passed last November to the law banning promotion of tobacco products. According to NCAS Executive Director Dr Yussuf Saloojee:

" [BAT] is trying to create a feeling among smokers that they are part of a privileged 'in-group', Thumbprints are scanned at the door and only members are allowed entry. Membership is free, and news about the venue of the next party is provided on a Web site where visitors play a game telling them where to collect the free tickets. BAT said the appearance of secrecy was only due to the ban on advertising such events."

The story illustrates the effort BAT continues to make to associate cigarettes with positive images and experiences. It is telling that the smoking parties are a form of marketing that would not be controlled by BAT's marketing code and this lends further support to the idea that the Code should be judged by what it permits rather than what it bans.

4. Legal action against tobacco legislation in Saskatchewan

On 9th May 2002, the Health Minister of Saskatchewan John Nilson announced that the province intended to defend its tobacco control legislation against a lawsuit launched by BAT^[100].

"He [Nilson] confirmed that the government was served notice Monday that Rothmans, Benson & Hedges [BAT] is challenging The Tobacco Control Act. "Our legislation must be working if this tobacco company is suing us...The Government of Saskatchewan will defend The Tobacco Control Act from this attack....The purpose of the act is to prevent tobacco companies from displaying tobacco products that encourage people, especially youth, to smoke"

The purpose of the new legislation was to block a loophole in the advertising law, which allowed tobacco companies to construct advertisements from large point of sale promotions – so-called 'power walls'.

5. Action against smoke-free initiatives in Uganda

Further evidence of BAT taking action to influence tobacco control legislation is provided by a current legal case in Uganda. Public interest lawyers took action to try to force consumer and worker protection from passive smoking. When the case started to go wrong for BAT, its switch from a judicial to a political approach.

The case, which looked as though it would succeed in banning smoking in Ugandan public places, ran into difficulties after BAT's new MD for the region, Shane De Beers, paid a visit to the Ugandan Attorney General to express his concern at the way the suit was developing. Philip Karugaba, a Tobacco control advocate and lawyer involved in the case, has provided ASH with the following commentary^[101],

"After the meeting [with De Beers], the Attorney General issued a warning that nothing further be done in this case until he has received a full brief on it.

Today I received a visit from the Director of Civil Litigation, from the Ministry of Justice. He informed me he was taking over the conduct of the case himself. I inquired about the fate of the amended consent judgement I sent earlier today. He said it would not be signed. His position was that we could reconcile and accommodate the [tobacco] industry interests....

There were references to the taxes being paid by BAT and pressure coming from the Ministry of Finance."

6. Australian hotels

BAT has begun to present its efforts to hamper anti-tobacco legislation in a new 'socially responsible' light. This new habit of presenting self-seeking practices as socially responsible is neatly illustrated by BAT's relationship with the Australian Hotels Association (AHA). According to Todd Harper of Quit:^[102]

"British American Tobacco in Australia continue to frustrate efforts to introduce legislation and policies to address the harm caused by environmental tobacco smoke.

In particular, its efforts to develop relationships with like-minded bodies have continued to undermine and confuse public health messages on ETS in this country...BATA have long been supporters of the Australian Hotels Association, a peak body representing Australia's hotel industry.... and not surprisingly the AHA has long been an opponent of smokefree legislation in the hospitality industry in Australia....such "accommodating smokers" arguments are presented by John Galligan, BATA's Corporate Regulatory Affairs Manager, as 'designed to elevate the issue of effective ventilation and filtration in the minds of hotel and bar owners'."

From the evidence above it is obvious that BAT is contemptuous of tobacco control laws in several of its target markets, and actively opposes the introduction of new tobacco control laws wherever it can. The statement in BAT's marketing code that it will abide by local tobacco law is at best incomplete – in reality the company will only abide by local tobacco laws if it is unable to suppress them at inception or exploit loopholes and weak enforcement once they are in place.

7. Threats and alarmism in Ukraine about the World Health Organisation

The excerpt below comes from a letter written in May 2000 by Mr. Zimmerman, Director General of BAT-Ukraine to Victor Juschenko, Prime Minister of Ukraine^[103].

"Provisions of the Framework Convention on Tobacco Control, which is currently prepared by WHO, could be dangerous for Ukraine. It threatens the sovereignty of a national government to develop its own [tobacco] regulation policy. On March 27-29 meeting of the WHO working group on FCTC issues was held in Geneva. We consider that position of the Ukrainian delegation may damage the economic interests of Ukraine. To discuss and develop tobacco policy in Ukraine we propose to establish Inter-sectoral Governmental Working Group from representatives of tobacco industry and governmental departments".

Note that BAT is dictating to the prime minister here. Konstantin Krasovsky, Coordinator of Coalition For Tobacco Free Ukraine (a group of 39 non-governmental organisations) comments^[104]:

“Such a Working Group was established. But it did not include any representatives of civil society, only government officials and representatives of BAT and the other three transnational tobacco corporations operating in Ukraine.

This example shows that in such countries as Ukraine, BAT does not want to have any dialogue with society about anything that really matters to its business.”

8. Stakeholder research in Uganda

Further evidence of BAT's negative attitude to WHO and World Bank initiatives - such as the FCTC and schemes to move tobacco growing countries away from tobacco based single product economics - is provided in one of BAT's own reports. The following is taken from the executive summary of a BAT report on stakeholder views in Uganda^[105].

Long term threats to the tobacco industry from the likes of WHO and the World Bank through their tobacco hostile policies could be eroded by carefully considering the [BAT] reputation management initiatives, and giving and communities. (page 3)

In Uganda, BAT has approached stakeholder dialogue from an unusual angle – instead of using stakeholder engagement to develop an understanding of how the company can become more ethical, the company has used stakeholder dialogue to determine how much of its pre-ethical agenda they can still get away with, and indeed, how corporate responsibility projects can be used to further these aims:

‘This [responsible marketing idea] is viewed as important to most respondents. It is not known by the public that BAT do self-regulation with regards to marketing but it may help the company's image if this were to be more widely understood. Examples of not advertising on TV or Radio, or removing posters near schools... could be seen as BAT bowing to government pressure and regulation instead of voluntarily responsible behaviour’ (page 12)

The report also has a revealing section on BAT's much-publicised Youth Smoking Prevention schemes:

This [youth smoking prevention] was regarded with a significant level of cynicism ...Why would a tobacco company try to prevent the youth from smoking...while at the same time market their product to adults? If the product is bad for youth, is it not bad for adults? (page 12)

9. Mauritius: a microcosm of bad practice

An account of BAT practice in Mauritius by Veronique Le Clezio of ViSa-Mauritius provides a microcosm of contemporary BAT business practice^[106].

She highlights unethical marketing and disregard for local tobacco control law:

‘In 1998, BAT Mauritius launched the brand ‘Benson & Hedges’ by organizing a free rock concert for youth, where a cigarette pack was offered to each spectator. An anti-tobacco organisation was then created as a response to this marketing abuse towards our youth and the Public Health Act of Mauritius was modified in June 1999 to include a ban on any form of tobacco advertising and sponsorship. Since then this law has been continuously flouted by BAT’

Buying favourable press relations:

In May 2002, BAT's disguised advertisements appear in popular Mauritian newspapers, which thus receive a large sum of money and are therefore not willing to publish anti-tobacco news and opinions

Associating BAT with public health bodies through mendacious anti-youth smoking programmes:

BAT joined the ministry of health of Mauritius in 2000 for a fake 'Under youth Smoking Campaign' with the ambiguous message, "To smoke or not to smoke- a major decision not to be taken by minors". A disguised, most cynical campaign meant to encourage youth smoking by tempting their ego

Ambiguous statements on smoking and health that touch on the scientifically proven dangers of smoking only to dismiss them:

Mr. Alleem, the General Manager of BAT Mauritius, made the following statement, "Even though nicotine is an important part of smoking pleasure, this does not make smoking addictive. People who want to quit smoking do so and in large numbers. Smoking does not intoxicate, does not require ever-increasing consumption to maintain its pleasure, is not a short-term risk. Nothing about cigarettes deprives the smoker of the ability to quit if he wants to"

10. Hypocrisy in Australia

Occasionally, BAT executives lapse into candour and puncture the carefully fashioned PR-speak emanating from London. BAT's Nick Greiner, Chairman of BAT Australasia commented[107].

"It's all a charade isn't it? You read the packet, everyone else's packet, it tells you that the government health officers, who are not stupid, assert that smoking causes cancer and so on. I am prepared to assume that they haven't made it up. But I am here to do a job. I took the job knowing what I was involving myself in. I am not heavily into hypocrisy. We are all lightly into it."

Mr. Greiner is still in post and in effect symbolises BAT's posture on corporate social responsibility. The following is a joint press release from Australia's three leading Public Health organisations concerned with smoking. It sums up the widespread view of BAT's business practices in the health community[108].

'The evidence that smoking is addictive and harmful to health has been around for more than 50 years, yet tobacco companies have for decades denied that they are selling a deadly product.

Regardless of what they say publicly, we now know that privately they're running scared. BATA and its lawyers have undertaken a concerted campaign to get rid of or hide evidence that proves they have long known about the dangers of cigarettes, yet continue to push them.

The findings in the McCabe case confirm our worst fears about the conduct of the tobacco industry.

This company has destroyed thousands of documents at the heart of their business operation in an effort to limit payouts to their victims – people who were encouraged to smoke by tobacco advertising campaigns and promotions that still exist, albeit in other forms, today.

For too long tobacco companies have been misleading and deceiving not only consumers but also governments to protect their own profits from the sale of lethal and addictive products.

The decision highlights the need for governments and authorities to demand accountability from the tobacco companies including taking legal action to obtain relief to counterbalance the public harm, secure penalties and facilitate compensation.

BATA's website boasts that currently, one in six of the world's one billion adult smokers choose a British American Tobacco brand.

In Australasia in 2000, British American Tobacco announced a consolidated operating profit before abnormal items and tax of \$246.4 million. We cannot allow the tobacco industry to continue to make these extraordinary profits – which in the case of BATA amounts to billions worldwide each year - on the back of selling a product that is causing the deaths of 19,000 Australians each year, and addicting many thousands more.

Despite their claims on their website that BATA fully support efforts to prevent and reduce underage smoking, the Cancer Council of Victoria has estimated that every week in Australia, children under 18 smoke more than 1,700,000 Winfield cigarettes, 692,000 Benson and Hedges cigarettes, and 488,000 Holiday cigarette. These are all BATA brands.

As a community we should be outraged by the conduct of BATA and cynical of attempts by the BATA to reposition itself as a socially responsible company.

11. Claiming safer cigarettes without any evidence

Though BAT declares that it would like to develop and market safer tobacco products in the future, it is so desperate to reassure its customers that it has leaped in to making marketing claims about safety without any substantiating evidence or any test of whether consumers properly. The following comment was made by Judy Wilkenfeld of the Campaign for Tobacco Free Kids in the United States^[109].

I would like to comment on the activities of one of its U.S. subsidiaries, the Brown & Williamson Tobacco Corporation, and how, contrary to BAT's assertions it continues to act irresponsibly and with disregard for public health.

For example, Brown and Williamson would like us to believe that it is working to make its products safer, yet its marketing for those products continues the same pattern of deception. Brown & Williamson is test marketing their Advance cigarette in several U.S. cities with the slogan "All of the taste ... less of the toxins." While making statements that will lead consumers to believe that these new products are safer, Brown & Williamson admit that they have no evidence that these products actually reduce health risks for smokers.

Brown and Williamson also continues to engage in the aggressive advertising and marketing they agreed to cease when signing the Master Settlement Agreement (MSA) in November 1998. The Federal Trade Commission reported that in 1999, the first year after the settlement, the marketing expenditures of the tobacco companies actually increased by 22 percent to a record \$8.24 billion. Much of this increase was in ways effective at reaching kids, such as high-visibility store shelf displays, discounts on cigarette brands favored by children and free gifts such as hats and lighters. Other studies have documented increases in tobacco advertising inside and outside retail stores and in youth-oriented magazines in 1999.

Brown and Williamson, like every other tobacco company, claims that since the MSA they've changed. But the facts show, they have introduced new, misleading products they claim to be safer, they have increased their marketing expenditures to record levels, shifted money to forms of advertising and promotion most effective at reaching kids and exploited every loophole in the settlement to continue business as usual.

Recommendations

We do not believe that British American Tobacco has even approached the starting line in the marathon effort it would take to reform the company from its current and historic mendacious and abusive posture. Most of what the company has done has been effective public relations or where genuine progress has been made, it has been at the periphery of its core activities.

We recommend the following:

1. That BAT agrees to participate fully in the public health agenda and support:
 - A total ban on advertising, promotion and sponsorship;
 - High tobacco and increasing tobacco taxes and a world-wide ban on duty free sales;
 - Effective control of the distribution system to reduce smuggling;
 - Widespread smoke-free policies in work-places or public places;
 - Government expenditure on comprehensive anti-tobacco campaigns focussed primarily on adults;

- Large bold warnings on packs, consumer protection information and generic packaging
- Removal of misleading branding such as 'lights';
- Prevention of other implicit or explicit health claims for tobacco products unless permitted by a competent regulator;
- Disclosure of all ingredients in tobacco;
- Regulation of ingredients, design and harmful properties of tobacco products;
- Removal of subsidies to tobacco;
- Primacy of health over trade and commerce in resolving trade related challenges to tobacco policies.

This represents an ethical societal approach to tobacco in which human life and well-being is given priority over business interests. However, we believe support for this agenda from BAT is highly unlikely and implausible as most of these measures destroy shareholder value in BAT, while protecting public health and wider society.

2. That BAT drops its all its youth smoking prevention programmes immediately. These are ineffective and counter-productive.
3. That BAT adopts a policy of searching honesty and candour about its products and the consequences arising from its business – this should be ‘the truth, the whole truth and nothing but the truth’.
4. That BAT abandons its attempts to derail the WHO Framework Convention on Tobacco Control. The Framework Convention Alliance, a grouping of 180 non-governmental organisations from all over the world has presented a ten-point objective for the FCTC^[110], but BAT wants a weak and ineffectual treaty.
5. That BAT’s social auditors adopt a critical and evidence-based approach to the company, drawing on the extensive evidence available in over 100,000 scientific papers and from ASH and other sources in the public health community. It is far too easy for well-intentioned advocates of corporate social responsibility to see ways of creating the appearance of progress with a company like BAT, only to find themselves co-opted into a public relations exercise and to find themselves working for the company and against those, like ASH, that do want to promote health and sustainable development.

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