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This report is the latest in a series of reports that analyze tobacco industry campaign contributions, lobbying, and other political activity. The previous reports are:

- M. Begay and S. Glantz. *Political Expenditures by the Tobacco Industry in California State Politics* UCSF IHPS Monograph Series, 1991.
- M. Begay and S. Glantz. *Political Expenditures by the Tobacco Industry in California State Politics from 1976 to 1991*. UCSF IHPS Monograph Series, 1991.
- B. Samuels and S. Glantz. *Tobacco Control Activities and the Tobacco Industry's Response in California Communities, 1990-1991*. UCSF IHPS Monograph Series, 1991.
- M.E. Begay and S.A. Glantz. *Undoing Proposition 99: Political Expenditures by the Tobacco Industry in California Politics in 1991*. UCSF IHPS, 1992.
- S.A. Glantz and L.R.A. Smith. *The effect of ordinances requiring smokefree restaurants on restaurant sales in California*. UCSF IHPS Monograph Series, 1992.
- M.E. Begay, M. Traynor, S. A. Glantz. *Extinguishing Proposition 99: Political Expenditures by the Tobacco Industry in California Politics in 1991-1992*. UCSF IHPS, 1992.
- M.E. Begay, M. Traynor, S.A. Glantz. *Tobacco Industry Political Expenditures in California State Politics, January-June, 1993*. UCSF IHPS, 1993.
- M.E. Begay, M. Traynor, S.A. Glantz. *Tobacco Industry Political Expenditures in California in the 1991-1992 Election*. UCSF IHPS, 1993.
- M.E. Begay, M. Traynor, S.A. Glantz. *The Twilight of Proposition 99: Preauthorization of Tobacco Education Programs and Tobacco Industry Political Expenditures in 1993*. UCSF IHPS, 1994.
- H. Macdonald and S. Glantz. *Analysis of the Smoking and Tobacco Products, Statewide Regulation Initiative Statute*. UCSF IHPS, 1994.
- H. Macdonald, M. Traynor, S. Glantz. *California's Proposition 188 : An Analysis of the Tobacco Industry's Political Advertising Campaign*. UCSF IHPS, 1994.
- S. Aguinaga, H. Macdonald, M. Traynor, M. Begay, S. Glantz. *Undermining Popular Government: Tobacco Industry Political Expenditures in California 1993-1994*. UCSF IHPS, 1995. (<http://galen.library.ucsf.edu/tobacco/undermining>)
- M. Begay, and S. Glantz. *Question 1: Tobacco Education Outlays From the 1994 Fiscal Year to the 1996 Fiscal Year* UCSF IHPS 1995. (<http://galen.library.ucsf.edu/tobacco/q1>)
- F. Monardi, E. Balbach, S. Aguinaga, S. Glantz. *Shifting Allegiances: Tobacco Industry Political Expenditures in California, January 1995 - March 1996*. UCSF IHPS 1996 (<http://galen.library.ucsf.edu/tobacco/sa>)
- F. Monardi, A. O'Neill, and S. Glantz. *Tobacco Industry Political Activity in Colorado 1979 - 1995*. UCSF IHPS 1996. (<http://galen.library.ucsf.edu/tobacco/co>)
- F. Monardi, and S. Glantz. *Tobacco Industry Political Activity in Washington 1983 - 1996*. UCSF IHPS 1996. (<http://galen.library.ucsf.edu/tobacco/wa>)
- F. Monardi, and S. Glantz. *Tobacco Industry Political Activity and Tobacco Control Policy Making in New Jersey 1982 - 1995*. UCSF IHPS 1997. (<http://galen.library.ucsf.edu/tobacco/nj>)
- E. Balbach, F. Monardi, B. Fox, S. Glantz. *Holding Government Accountable: Tobacco Policy Making in California, 1995-1997*. UCSF IHPS 1997. (<http://galen.library.ucsf.edu/tobacco/ca9597/>)
- S. Aguinaga-Bialous and Stanton A. Glantz. *Tobacco Control in Arizona 1973-1997*. UCSF IHPS 1997. (<http://galen.library.ucsf.edu/tobacco/az/>)
- F. Monardi, and S. Glantz. *Tobacco Industry Political Activity and Tobacco Control Policy Making in Pennsylvania 1979 - 1996*. UCSF IHPS 1997. (<http://galen.library.ucsf.edu/tobacco/pa>)
- B.J. Fox, J.M. Lightwood, S.A. Glantz, *A Public Health Analysis of the Proposed Resolution of Tobacco Litigation*. UCSF IHPS 1998. (Available on the World Wide Web at <http://www.library.ucsf.edu/tobacco/ustl/>)
- L. Goldman, and S.A. Glantz. *Tobacco Industry Political Activity and Tobacco Control Policy Making in Oregon 1985 - 1997*. UCSF IHPS 1998. (<http://galen.library.ucsf.edu/tobacco/or/>)
- F. Monardi, and S.A. Glantz. *Tobacco Industry Political Activity and Tobacco Control Policy Making in Wisconsin 1981 - 1998*. UCSF IHPS 1998. (<http://www.library.ucsf.edu/tobacco/wi>)
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- S. Magzamen and S. Glantz. *Analysis of Proposition 28: Repeal of Proposition 10 Tobacco Surtax Initiative Statute*. UCSF IHPS 2000. (<http://www.library.ucsf.edu/tobacco/prop28>)
- J. Dearlove and S. Glantz. *Tobacco Industry Political Influence and Tobacco Policy Making in New York: 1983-1999*. UCSF IHPS. (<http://www.library.ucsf.edu/tobacco/ny>)
- M. Givel and S. Glantz. *The Public Health Undermined: The Tobacco Industry's Legacy in Missouri in the 1990's*. UCSF IHPS. (<http://www.library.ucsf.edu/tobacco/mo>)

## Executive Summary\*

Cigarette consumption among people 15 years or older peaked in Switzerland in the early 1970's with 3,700 cigarettes per capita and per year, followed by a decline to 2,800 cigarettes per capita and per year in 1994. After a decline of the proportion of smokers from 37% in 1980 to 31% in 1992, this proportion has increased again to 33% in 1997. Women, particularly the young, and children and adolescents, have shown a continued increase in smoking prevalence, despite the focus of tobacco prevention efforts on children and adolescents.

Every year, over 10,000 people die from tobacco use in Switzerland, about a sixth of all annual deaths in Switzerland, making smoking the leading preventable cause of death in Switzerland. This number is more than 20 times higher than the number of deaths caused by illegal drugs.

The tobacco excise tax in Switzerland is the lowest in Western Europe.

The laws governing tobacco products, their marketing and sales, are weak and have little practical effect on the tobacco industry.

There is no meaningful protection of nonsmokers from the toxic chemicals in secondhand tobacco smoke, in public places or work places.

A ten-country survey on people's experiences and attitudes concerning tobacco and smoking in 1989, commissioned by Philip Morris International, showed that Swiss people were aware of secondhand smoke's adverse effects on health, but only a minority favored government regulations for smoking in restaurants and workplaces.

A first comprehensive 5-year tobacco prevention program, 1996 to 1999, issued by the Swiss Federal Office of Public Health lacked adequate financial resources, focus on specific interventions, cooperation between partners for tobacco prevention, and program coordination and management. It ignored the role of the tobacco industry.

As a result of recent events in the US and WHO's active engagement of the tobacco industry, the draft five-year plan for tobacco prevention in Switzerland for 2001 to 2005 identifies the tobacco industry as a major obstacle to tobacco prevention.

Until the recent merger of British American Tobacco (BAT) with Burrus-Rothmans in 1999, the single most important tobacco company in Switzerland was Philip Morris (PM), with a market share of close to 50% (and close to 25% for Marlboro alone). Since the merger, the tobacco market is dominated by PM and BAT, each with a market share of cigarette sales between 45% and 50%.

As was the case in the US, in the early 1960's, the scientists in Swiss tobacco industry research laboratories (in this case, FTR (Fabriques de Tabac Réunies) / Philip Morris) accepted and discussed the dangerous effects of smoking on health in internal company communications.

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\* The Executive Summary appears in German on page 105 and French on page 109.

At that time, these scientists earnestly tried to find ways to reduce the carcinogenic effects of cigarettes through elimination of carcinogenic components.

Contrary to privately expressed views, tobacco industry's public position in Switzerland was that there was ongoing controversy in the issue whether smoking caused diseases or not.

The "controversy" was nurtured through regular media briefings and scientific meetings with carefully chosen scientists who would publicly support the industry's position, but without declaring their liaisons with the tobacco industry. Relationships with these industry "consultants" or "witnesses" were maintained through direct payments and indirectly through funding of their research.

By late 1980's the tobacco industry had identified the decline of social acceptability of smoking in Europe as a major threat to its viability. This recognition led to the development of a comprehensive strategy to fight the secondhand smoke issue. "Courtesy and tolerance" and economic arguments were used to divert the public's and policy makers' attention from the health issue. The resulting strategies were often devised in consultation with executives of other Philip Morris subsidiaries and Philip Morris International headquarters in New York. Well aware of its low credibility with the public, journalists were given interviews and told not to mention the tobacco company's name in the newspaper article.

Official publications, such as "Smoking and Mortality in Switzerland" by the Federal Office of Public Health, the report on the respiratory effects of secondhand smoke by the US Environmental Protection Agency, as well as original scientific publications, such as an article in the *American Journal of Respiratory and Critical Care Medicine*, dealing with secondhand smoke and respiratory symptoms in Switzerland (SAPALDIA study) written by a group of Swiss scientists, were massively attacked by the tobacco industry. The tobacco industry employed "consultants" and politicians with industry ties, who used standard industry arguments.

One of the most active industry consultants in Switzerland was Peter Atteslander, a Swiss citizen and professor at the University of Augsburg in Germany. He wrote white papers for the tobacco industry and reported from meetings worldwide. Atteslander appeared to be the essence only member of the Switzerland-based "Arbeitsgruppe für Gesundheitsforschung (AGEF) ("Working Group on Health Research"), which published his work without disclosing the ties to the tobacco industry.

To fight smoking restrictions in restaurants and hotels, the tobacco industry developed a strong ally in the hospitality association, the International HoReCa. The secretary general of International HoReCa at the time was Dr. Xavier Frei, also president of the SCRA (most likely the Swiss Café and Restaurant Association). The hospitality association made extensive use of tobacco industry resources and repeatedly printed tobacco industry positions in hospitality industry newsletters, without the members of International HoReCa or SCRA being informed about the close ties between their organization and the tobacco industry.

The "accommodation program," a well-known tobacco industry strategy to preempt regulatory measures against smoking in restaurants and workplaces first developed in the United

States, was used in Switzerland. The fact that even the logo was the same as the one used in the US is another illustration of tobacco industry's recycling of strategies and tactics worldwide.

The shift of focus from the problem of secondhand smoke to one of indoor air quality in general was (and remains) a major strategy used by the tobacco industry worldwide to dilute the problem of secondhand smoke with other indoor air pollutants and ventilation of buildings. To this end, an indoor air quality control company with close ties to the tobacco industry, ACVA Atlantic Inc., USA, later renamed Healthy Buildings International, HBI, collected data which was used extensively by the tobacco industry to further their goal of downplaying the role of secondhand smoke as a major component of indoor air pollutant. Employees of HBI were sent to Switzerland to collect data on Swiss office buildings, and the data were used in the newsletters of HoReCa to support the accommodation program and against non-smoking regulations. HBI has been discredited in the US.

The tobacco industry tried to influence smoking policy in airplanes through partial funding of IFAA's (International Flight Attendants Association) world congresses. This influence was established through close relationship with the president of the association, a common industry strategy in influencing organizations. When, in the wake of smoke-free flights in the US and other countries, Swissair finally introduced smoke-free flights, it was heavily criticized in newspaper articles by the Swiss "Smokers Club," and later the Swiss "Club of Tobacco Friends," whose president and founder is a former public relations official for the tobacco industry.

The Swiss Cigarette Manufacturers Association successfully influenced smoking policy in railway trains through letters to the publishers of newspapers and direct lobbying toward cantonal authorities and the head of the national railways.

Two referendums on tobacco and alcohol advertising bans in 1979 and 1993 were rejected by Swiss voters despite pre-referendum polls favoring advertising bans through a strong and lasting alliance of the tobacco industry with the advertising agencies and the print media. The tobacco industry successfully kept itself behind the scenes in order to avoid negative publicity while financing the anti-advertising ban campaigns and supplying the alliance against advertising bans with well-crafted arguments by tobacco industry public relations and law firms through the International Tobacco Information Center, INFOTAB. The tobacco industry and its allies used economic and political arguments, such as purported effects on employment, state tax revenues, and individual and corporate freedom to fight the advertising bans.

Close relationships with officials and politicians were emphasized and maintained through regular meetings with the head of the political parties and briefings of the "tobacco caucus" in the parliament. This caucus gave the tobacco industry the means to stay well informed about the political agenda and to easily influence the political process in their favor.

While Switzerland has some of the most progressive and innovative public health promotion programs, most public health advocates underestimate the power of, and driving forces behind, a tobacco industry, and only few of them have confronted the industry directly.

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“Europe is beginning to face many of the same political and social pressures that have been present in the US for quite some time. Although this is far more true in the EEC [European Economic Community] region than in the EEMA [EFTA –European Free Trade Association, Eastern Europe, Middle East, Africa] region, a number of EEMA countries are experiencing these pressures as well. The EEC is still contemplating an advertising ban; many countries in Western Europe now have active anti-smoking groups which are attempting to demonstrate the dangers of smoking to the populace; increasing cigarette taxes has been referred to above, and this trend is actually more of a problem for PM [Philip Morris] Europe than it is for PM USA. *All of these issues, however, are minor annoyances compared to the potential damage to the industry posed by the environmental tobacco smoke (ETS) issue. It is through ETS that the anti-smoking forces in the US – as well as Canada, Australia, and other countries – have caused smoking to become a socially unacceptable form of enjoyment. Should this occur in Europe it would have serious economic consequences for PME [Philip Morris Europe] for two reasons. The first is that opportunities for smoking, and therefore, consumption would decline. France has already passed legislation which virtually eliminates smoking in public places, and other countries are debating similar laws. Secondly, if smoking is socially unacceptable, product image ceases to be important, and the major reason for smoking premium products ceases to exist.*”<sup>1</sup> [emphasis added]

--Philip Morris Europe R&D [research & development] three year plan 1993-1995, confidential

...in Switzerland, where 9 out of 10 people believe ETS is a health hazard, and 73% of non-smokers feel annoyed by smoking (of whom 59% say they feel annoyed in restaurants), and where only 19% of non-smokers feel smokers are courteous (one of the lowest scores measured), it is not surprising that 51% of Swiss smokers say that they hear complaints often (one of the highest scores in Europe) and that 64% say that they support separate sections in restaurants. *A kind of social war -- albeit hidden -- seems to be raging in Switzerland, war that smokers are in danger of losing unless the industry comes forward with ammunitions which allows social harmony to be recreated.*<sup>2 p. 12</sup> [emphasis added]

--An accommodation strategy in EEMA. A strategic brief. Prepared by Burson-Marsteller in May 1990, strictly confidential

## Chapter 1. Introduction

The prevalence of smoking in Switzerland is higher than in the United States and the availability of smoke free areas lower. In addition, Switzerland has fewer restrictions on advertising and promotion of tobacco products than some other countries in Europe. One possible explanation for these differences is differences in history, culture and social values, with the Swiss being more accepting of tobacco use and promotion than Americans and others. At the same time, however, there were efforts in Switzerland – largely unsuccessful – to enact clean indoor air laws, restrictions on advertising, and other tobacco control policies. While the tobacco industry clearly played an important role in defeating these policies, its role was often not clear at the time.

We now have a clear view of the tobacco industry's strategies in Switzerland as a result of lawsuits in the United States which have made millions of pages of previously secret tobacco industry documents public. These documents reveal that, as with its efforts to subvert scientific research on passive smoking at the International Agency for Research on Cancer<sup>3</sup> and tobacco control efforts at the World Health Organization,<sup>4</sup> the tobacco industry made a large, and largely invisible, effort in Switzerland to prevent implementation of meaningful tobacco control legislation and policies in Switzerland.

In contrast to what one might expect, the industry's strategies for fighting tobacco control in Switzerland were remarkably similar to strategies that the industry used in the United States and elsewhere. This result is perhaps less surprising when one considers that the international tobacco companies work cooperatively to maintain a large transnational intelligence apparatus that is based on a sophisticated and well-funded network of information channels for knowledge and skills exchange designed to counter tobacco control efforts in Switzerland (or any other country).<sup>5</sup> Members of the public health community, the government, and the media seemed largely unaware of this situation.

The development and successful implementation of tobacco control strategies designed to reduce smoking and to protect the public health in Switzerland will require that public health advocates inside and outside government understand the industry's strategies and tactics and develop the political will to engage and defeat them.

### ***What is the scope of the problem?***

Tobacco is projected to be the single most important cause for the global burden of disease, as measured by Disability Adjusted Life Year in the coming decades.<sup>6</sup> (Disability Adjusted Life Year (DALY) is a measure of the burden of disease developed to take into account the life years lost due to premature death and disability due to diseases, calculated by attributing specific disability weights to diseases.) Tobacco alone is estimated to contribute 9% of the total burden of disease by the year 2020, more than any other single cause, including diarrhea and HIV infection.<sup>6</sup>

Given this formidable challenge to public health, the World Health Organization (WHO), through the Tobacco Free Initiative (TFI), has initiated a coordinated global effort to curb the “silent epidemic.” The Framework Convention on Tobacco Control, an international, multilaterally negotiated legal instrument, will provide the tobacco control policy measures the legitimacy in all 191 member nations of WHO, and strengthen national efforts in tobacco control, as well as promote international cooperation.<sup>7</sup>

### ***Why do a tobacco industry document analysis on Switzerland?***

For decades the tobacco industry has been hiding its knowledge about the harmful effects of tobacco on health. In spite of accumulating scientific evidence, the tobacco industry has quite successfully undermined tobacco control efforts over the past years, using political, legal, and public relations strategies to counter scientific evidence and minimize and confuse public appreciation of the fact that tobacco kills.<sup>8,9</sup>

It is the overall goal of this report to make the role of tobacco industry in Switzerland relevant to public health advocates, policy makers, and the public through exposure of tobacco industry strategies used to undermine tobacco control efforts in Switzerland. As Gro Harlem Brundtland, Director General of WHO, said in her welcome address at the first meeting of the Working Group on the WHO Framework Convention on Tobacco Control in October 1999: “If we have to control malaria, we have to understand the vector. It is not different with tobacco.”<sup>10</sup> Swiss people, as elsewhere, have to understand who is the vector of tobacco-related diseases and deaths.

### ***What is the political structure in Switzerland, and whose responsibility are health-related measures?***

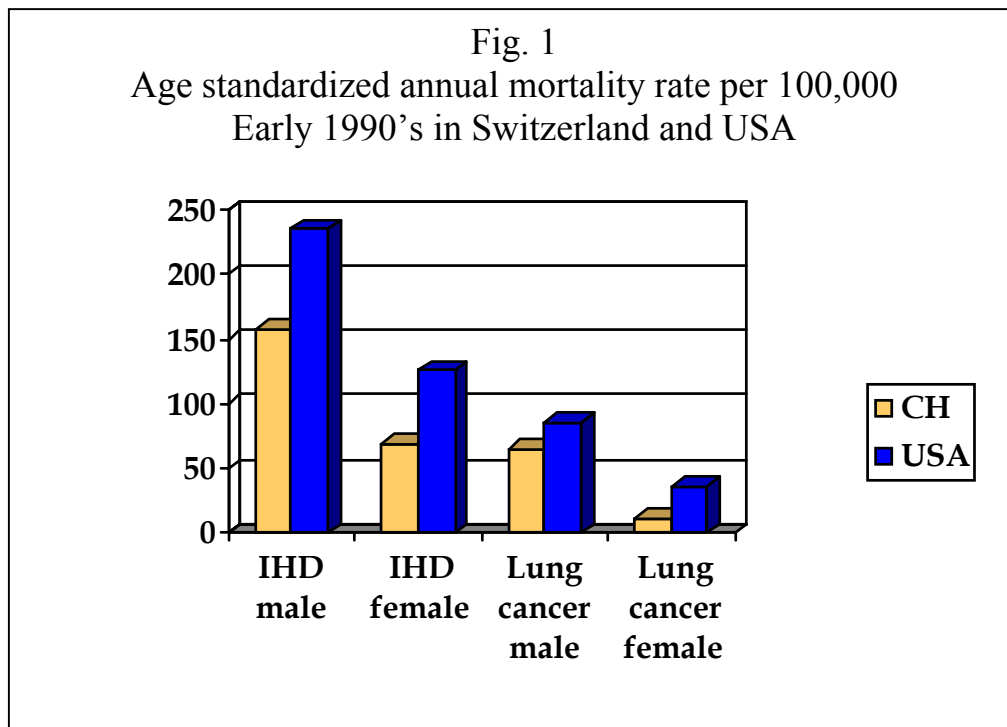
Switzerland is a small, multilingual country with 7 million inhabitants and 3 major language regions. One out of five people is a foreign resident, with some urban areas approaching a proportion of 1 in 4. Roughly 2 out of 3 live in urban areas.<sup>11</sup> Switzerland has maintained a high level of wealth (GNP 1990 US\$ 34,269) and a low level of unemployment (1996 3.7%)<sup>12</sup> compared to other European countries. It is a direct democracy with many voting opportunities for its citizens on the municipal, cantonal, and federal level. The country has a federalistic political structure, which gives the cantons and municipalities much autonomy.<sup>13</sup>

Similarly, responsibilities for health related matters are shared by federal and cantonal authorities, as well as by the private sector through a complex system of laws and regulations. Though not completely regulated by the free market, the private sector plays a very significant role in this decentralized and heterogeneous health care and services system, which renders the country susceptible to undesirable alliances between the numerous regulatory authorities and private interest groups, including the more powerful economic interest groups.<sup>13</sup>

At the federal level, health care and services are the responsibilities of the Federal Office of Public Health and the Federal Social Insurance Office, both of which are part of the Federal

Department (Ministry) of Internal Affairs. At the cantonal level, health is the responsibility of one or several Departments. A harmonization of regulations among the 26 cantons is coordinated by the Conference of Cantonal Directors of Health Affairs, which meets on a regular basis and formulates position papers and recommendations for health services management and planning that is of common interest.<sup>13</sup>

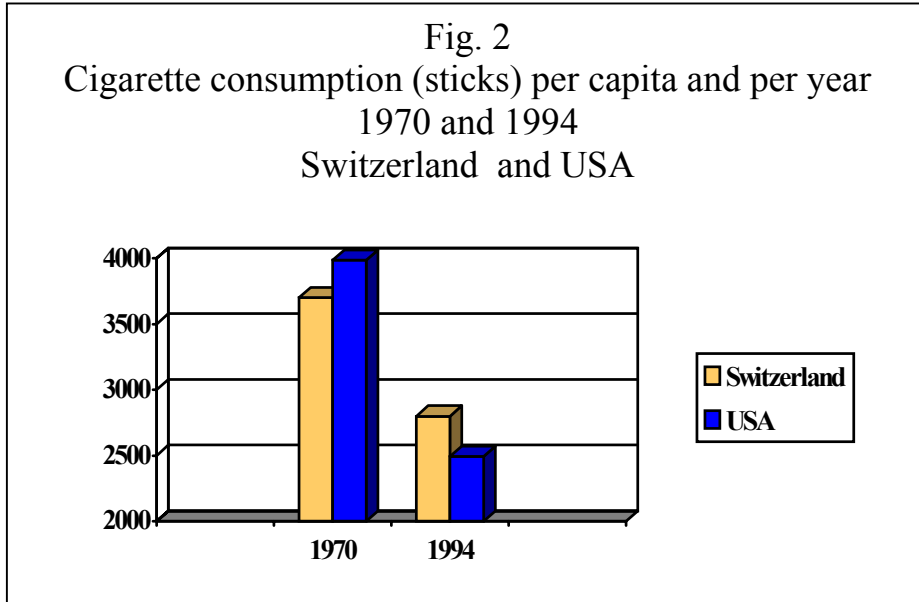
Life expectancy at birth between 1990 and 1995 was 74.7 years (compared to 72.5 in the USA) years for males, 81.2 (79.3) years for females. Infant mortality rate in the same time period was 6 (9) per 1,000 live births. Age standardized annual death rate per 100,000 in early 1990's were as follows (Fig. 1) (values for the USA in parentheses):  
 Ischemic heart disease for males 158.1 (235.5), for females 69.3 (126.4).  
 Cerebrovascular disease for males 60.8 (52.8), for females 47.5 (46.2).  
 Chronic obstructive pulmonary disease for males 39.6 (45.3), for females 11.7 (23.6).  
 Lung cancer for males 65.0 (85.9), for females 12.1 (36.9)<sup>11, 14</sup>



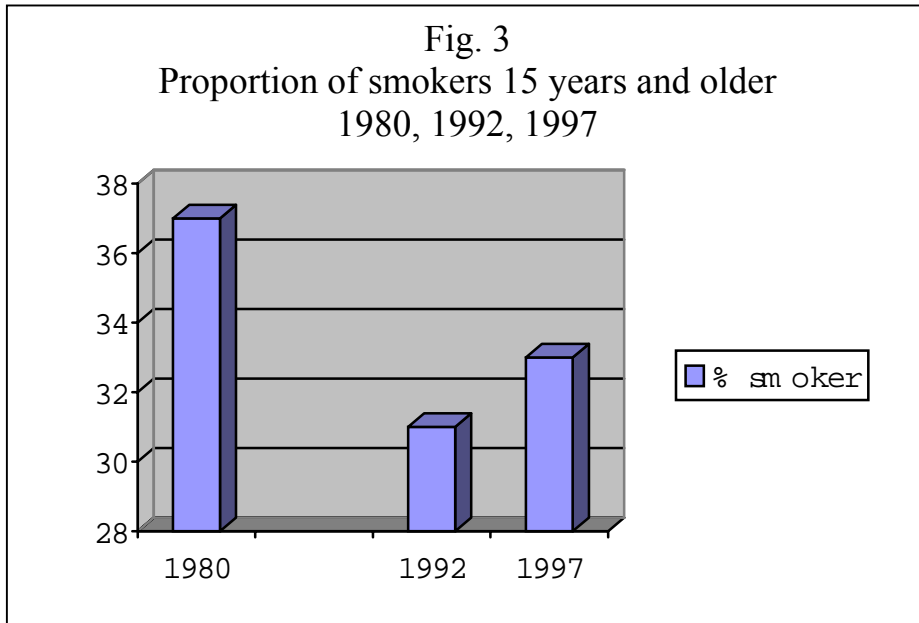
***What are the tobacco-related data in Switzerland?***

Ninety-five percent of raw tobacco is imported. At the same time, Switzerland had an export surplus of over 20,000 million cigarettes in 1993, the bulk exported to Eastern Europe and Asia. This translates to approximately US\$ 130 million net earnings from cigarette trades in 1993. About 4,400 people were reported by the tobacco industry to be employed in cigarette manufacturing and related businesses in 1994. Tobacco tax revenues amounted to US\$ 1 billion in 1994.<sup>11</sup>

Tobacco consumption in Switzerland peaked in the early 1970's at around 3,700 per capita and year for age 15 or older, with estimated decrease to around 2,800 in 1994 (Fig. 2). 16,000 million cigarettes, 170 million cigars, and 180 tons of smoking tobacco were sold in Switzerland in 1994. An estimated time of 9 minutes of labor at the average industrial wage was necessary to earn a package of 20 cigarettes in the early 1990's.<sup>11</sup>



The proportion of smokers 15 years old and older in Switzerland decreased from 37% in 1980 to 31% in 1992. The proportion of smokers has increase again since to reach 33% in 1997. (Fig. 3) However, the male-female prevalence ratio decreased from 46%/28% (1.6) to 36%/26% (1.4) in the same time period. In general, the smoking prevalence is lowest in the German speaking part and highest in the Italian speaking part, with the French speaking part somewhere in-between.<sup>11, 15, 16</sup>



There were approximately 1.75 million smokers between 15 and 74 years of age in 1990, which corresponds to 33% of the population (women 27%, men 38%). Among 15 to 24 year old, the proportion of smokers increased to over 40% from 1992 to 1997 (women from 26% to 40%, men from 36% to 46%). Overall, women and school children have shown an increasing trend in smoking prevalence during the past 10 years: 24% of women aged 18 to 19 smoke, and the proportion of smokers among school children has increased from four to seven percent. The trend among heavy smokers (20 or more cigarettes per day) is particularly worrisome for women: Their prevalence increased from 8% to 12% over a decade, while the prevalence of heavy smokers among men stayed stable around 20%.<sup>11, 13, 15, 16</sup> In 43% of households with children age 6 or younger, there is at least one smoker, whereas in 48% of households with children and youth up to the age of 18, there was at least one smoker.<sup>17</sup> Smoking is initiated in teenage years in a large majority of adult smokers that most people smoke in Switzerland. There is an erroneous perception among teenagers. Even among non-smokers almost half of teenagers believe that a majority of their colleagues smoke.<sup>18</sup>

Smoking-attributed death rate increased gradually until mid-1908's to plateau subsequently and possibly decrease slightly during the 1990's. Since the early 1980's, lung cancer mortality has been declining among men. In contrast, lung cancer mortality among women has been increasing steadily to reach an annual rate of increase of more than 5% currently, which represents the most rapid increase in female lung cancer rates anywhere in the world (along with Hungary).<sup>11</sup>

Every year, over 10,000 people are estimated to die from the consequences of tobacco use in Switzerland. This number corresponds to about a sixth of all annual deaths in Switzerland, and is more than 20 times higher than the number of deaths caused by illegal drugs. This makes smoking the most common preventable cause of premature deaths.<sup>19</sup>

### ***What are the laws that regulate cigarettes and smoking?***

In 1995, new regulations limited tar contents to 15 mg per cigarettes and banned the importation and sale of tobacco products for oral use. A general health warning has been mandatory for cigarettes, as is a rotating health warning on packages of cigarettes and rolling tobacco packs since 1978 ("Warning from the Federal Office of Public Health: Smoking can damage your health"). The warning label was adapted to the one used in EU countries in 1995 ("Smoking leads to cancer, chronic bronchitis and other lung diseases").<sup>20 p. 1</sup>

Laws governing advertising to minors have been in place since 1978. Advertising specifically targeted at youth and free promotional items during sporting and cultural events that are primarily attended by minors (ages 18 years or younger) is prohibited. In magazines and other publications aimed at minors, and in electronic media (TV and radio), cigarette advertising is prohibited. Except under certain conditions, use of descriptors for cigarettes, such as "pure" and "natural" is forbidden.<sup>11, 20</sup>

There are no restrictions in sales of tobacco products to minors. However, distribution of tobacco products to minors free of charge is prohibited. There are efforts by tobacco control

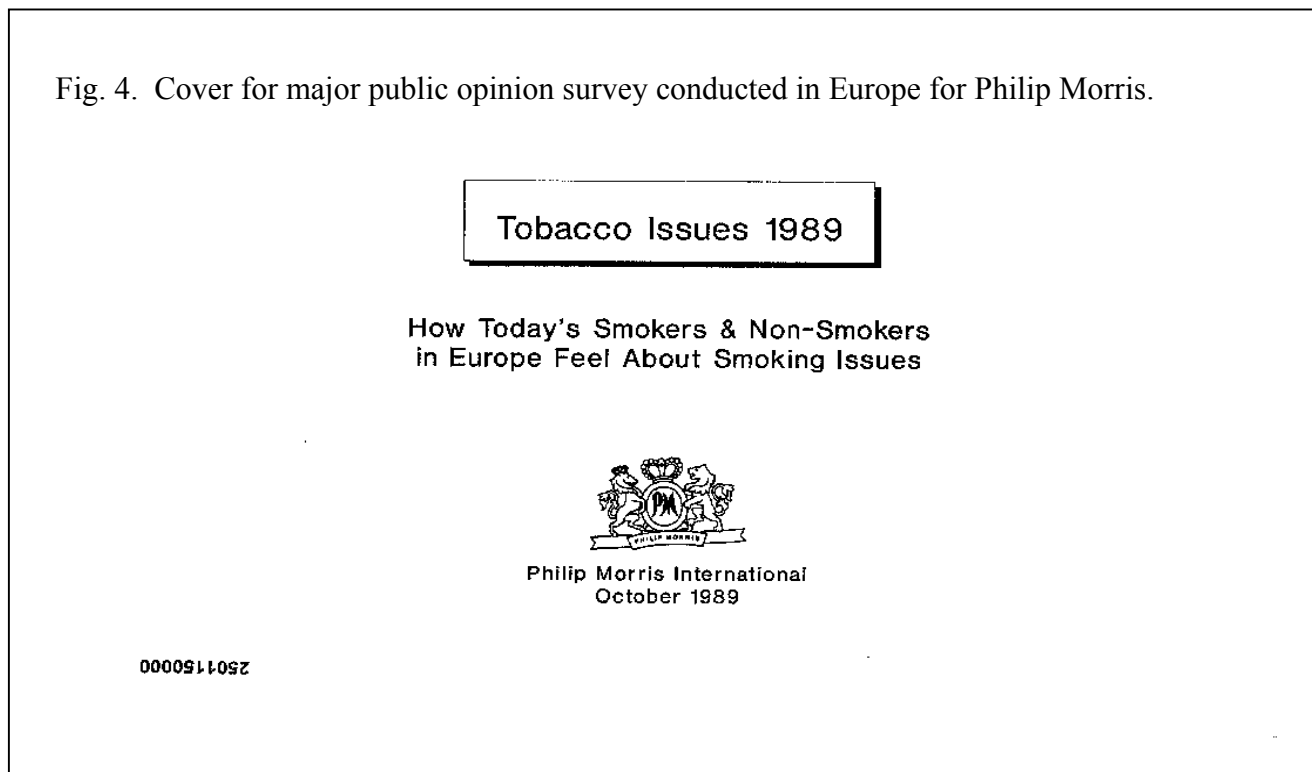
advocates and some public health officials to ban tobacco sales to minors younger than 16 years of age. The sale of smokeless tobacco is forbidden.<sup>20</sup>

Even though there is occupational and safety legislation that nominally protects non-smokers from secondhand tobacco smoke at the workplace, this legislation is weak and rarely enforced.<sup>11</sup> This law, which has been in place since October 1, 1993, leaves a good deal of freedom of interpretation to the employer, who also has much power over the employee, so there is not much employee protection. It says “The employer, within the framework of operational possibilities, has to ensure that non smoking labor is not inconvenienced by other people’s tobacco smoke.” Smokefree public places are required in post offices, museums, theaters, etc, enforced by the operating authorities. However, there are no fines for those who refuse to comply with these regulations.<sup>20, 21</sup> For all practical purposes, there are no effective protections for nonsmokers from the toxic chemicals in secondhand tobacco smoke in Switzerland.

***How do smokers and non-smokers in Switzerland feel about smoking issues compared to other European countries and the US?***

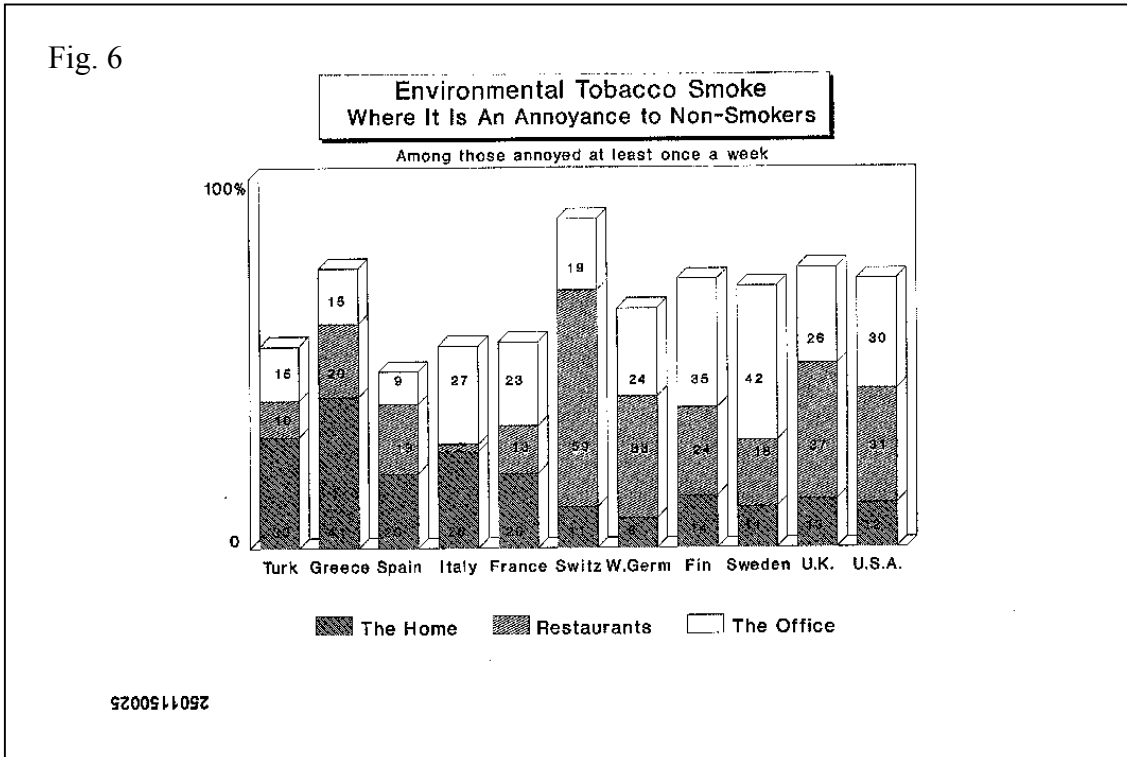
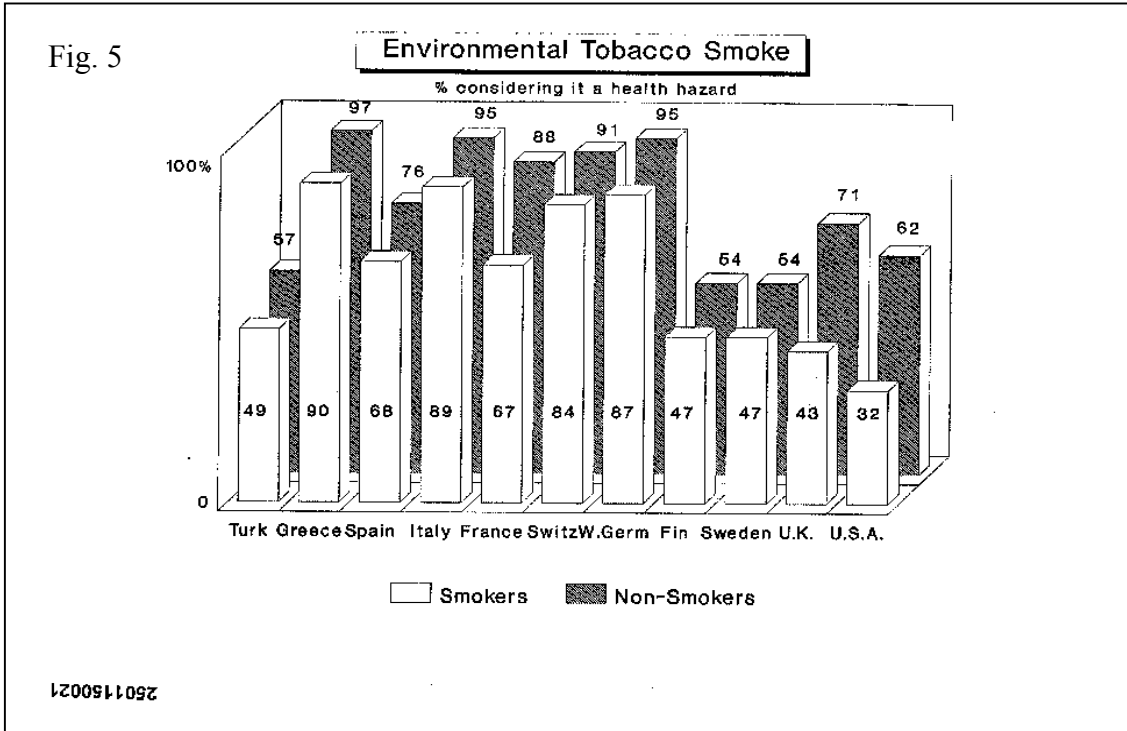
In 1989, under the pressure of increasing smoking restrictions and decreasing social acceptance of smoking, Philip Morris International undertook a simultaneous 10 country survey of public opinions on various smoking-related issues. (Fig. 4)<sup>22, 23</sup> The 10 countries surveyed were: Finland, France, Greece, Italy, Spain, Sweden, Switzerland, Turkey, The United Kingdom, and former West Germany. This study included a national probability sample of 1,000 smokers and 1000 non-smokers of age 20 or older for each country surveyed.

Fig. 4. Cover for major public opinion survey conducted in Europe for Philip Morris.

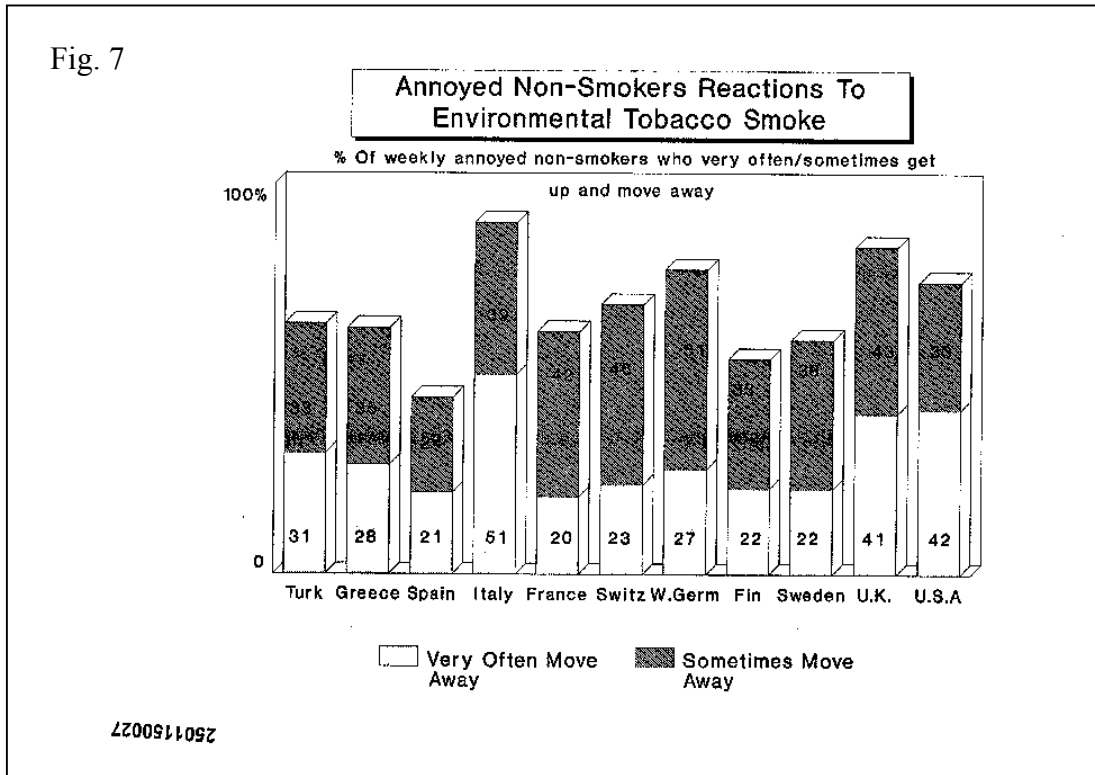




As in other countries, only a small minority of Swiss people was aware of secondhand smoke as a cause of indoor air pollution. Nonetheless, a large majority of smokers (84%) and non-smokers (91%) in Switzerland considered secondhand smoke to be a health hazard. In Finland, Sweden, UK, and US, the proportion of smokers (non-smokers) considering secondhand smoke a health hazard was only between 32% (54%) and 47% (71%). (Fig. 5)



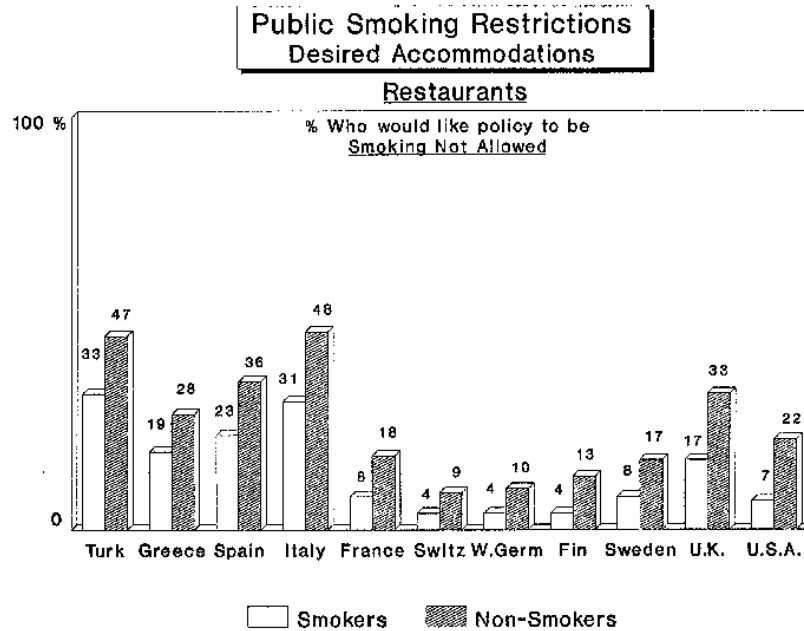
According to a study commissioned by the tobacco industry in 1996, the proportion of Swiss people who considered secondhand smoking to be a problem had remained the same at 89%.<sup>24</sup> Compared to most other surveyed countries, with the exception of Germany, Spain, and France, Switzerland had the lowest proportion of non-smokers (60%) who would still object to secondhand smoke, even if told by the national health authority that cigarette smoke in the air could not harm health. Like most other surveyed countries, a majority of non-smokers in Switzerland found cigarette smoke annoying (73%, other countries between 66% and 88%). Among those non-smokers who are annoyed at least once a week, 59% felt so in restaurants (other countries between 2% and 37% only), 19% felt annoyed in the office (other countries between 9% and 42%), and only 11% felt so at home (other countries between 8% and 41%, with the majority of countries between 10% and 30%). (Fig. 6) Of the weekly annoyed non-smokers in Switzerland, 46% move away sometimes, and 23% move away very often, (Fig. 7) while 32% sometimes ask, and only 7% usually ask the smokers to put their cigarettes out. Nonetheless, 90% of smokers heard complaints from non-smokers.



Overall, in 1989, Switzerland had one of the lowest proportions of smokers and non-smokers (generally lower than 30%) who favored smoking bans in restaurants (Fig. 8), public waiting rooms/lobbies (Fig. 9), and on flights (Fig. 10a and 10b), except in offices (Fig. 11), where the proportion of those in favor of smoking bans was somewhat higher (37% and 51%, respectively).<sup>23</sup> Whereas in 1989 the proportion of Swiss people favoring separate facilities for smokers and non-smokers in restaurants was approximately 69% (64% in smokers and 74% in non-smokers in a balanced sample of smokers and non-smokers, Fig. 12),<sup>23</sup> this number had increased to 75% overall in 1997.<sup>24</sup> The numbers for separate facilities in offices were much lower (Fig. 13). As for smoking ban in offices, while 44% overall (37% among smokers, 51% among non-smokers) favored this regulation in 1989,<sup>23</sup> this number had increased to 55% in

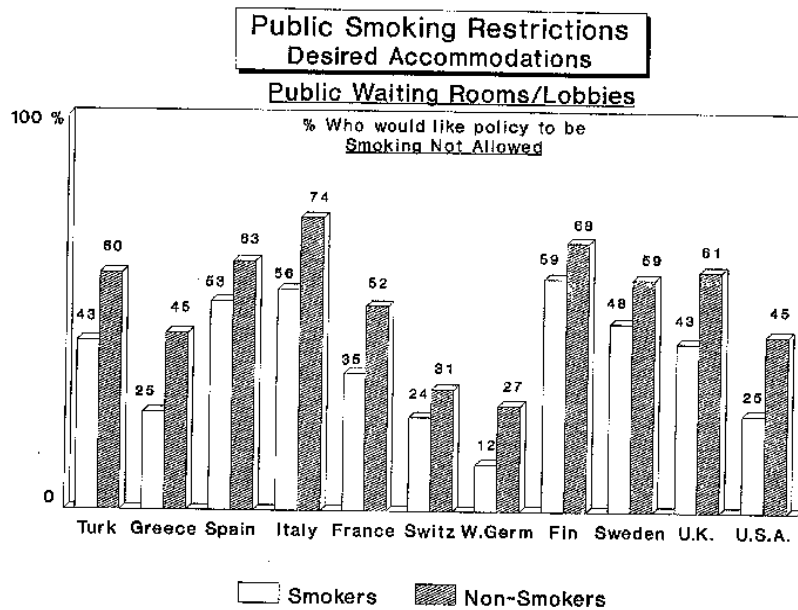
1997, demonstrating an overall tendency toward favoring smoking regulations in workplaces and public places.

Fig. 8



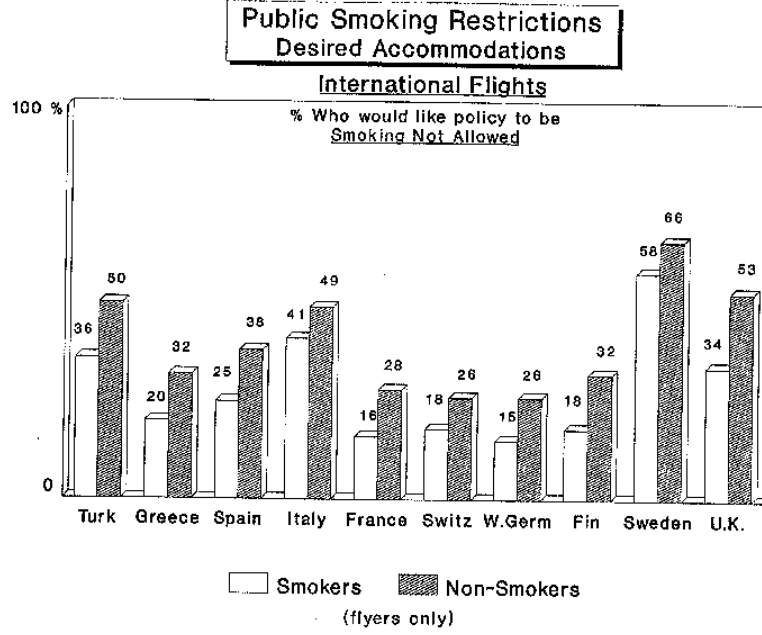
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Fig. 9



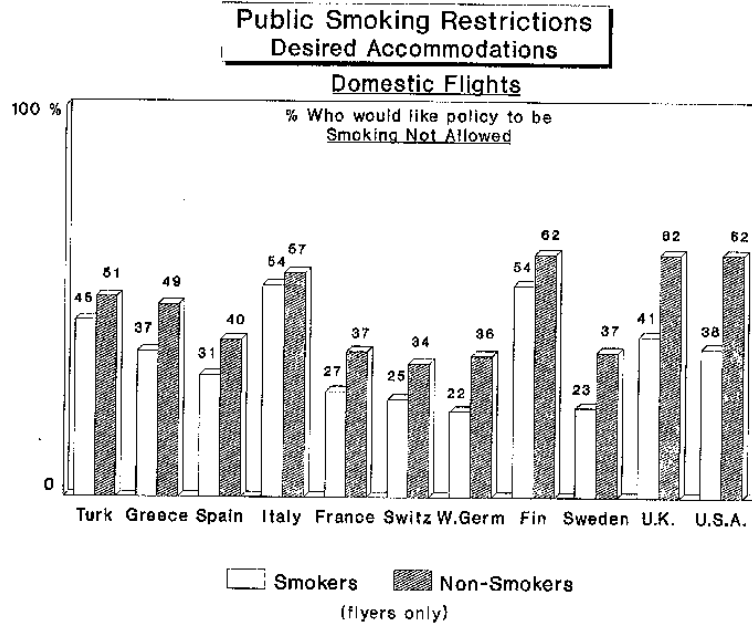
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Fig. 10a



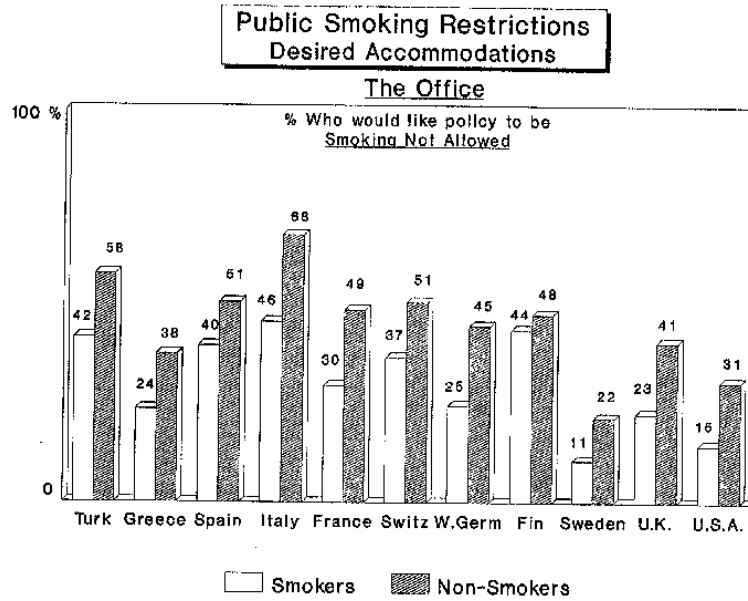
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Fig. 10b



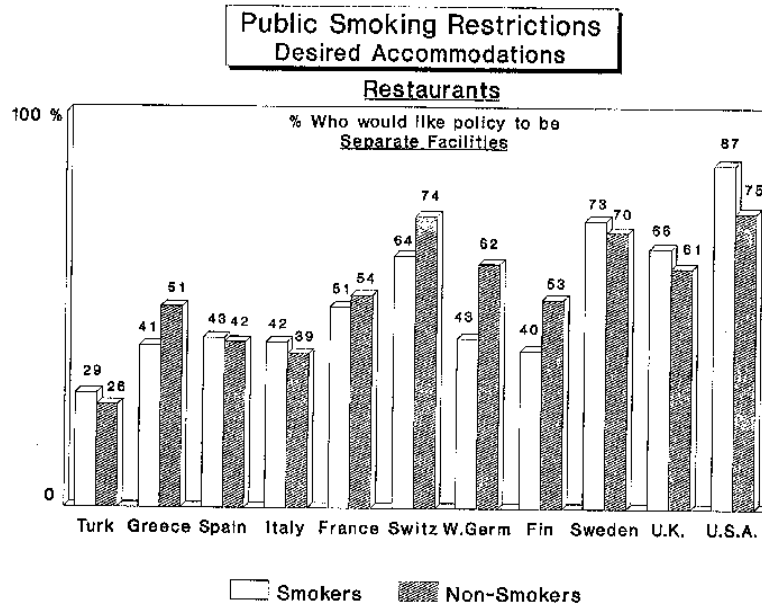
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Fig. 11



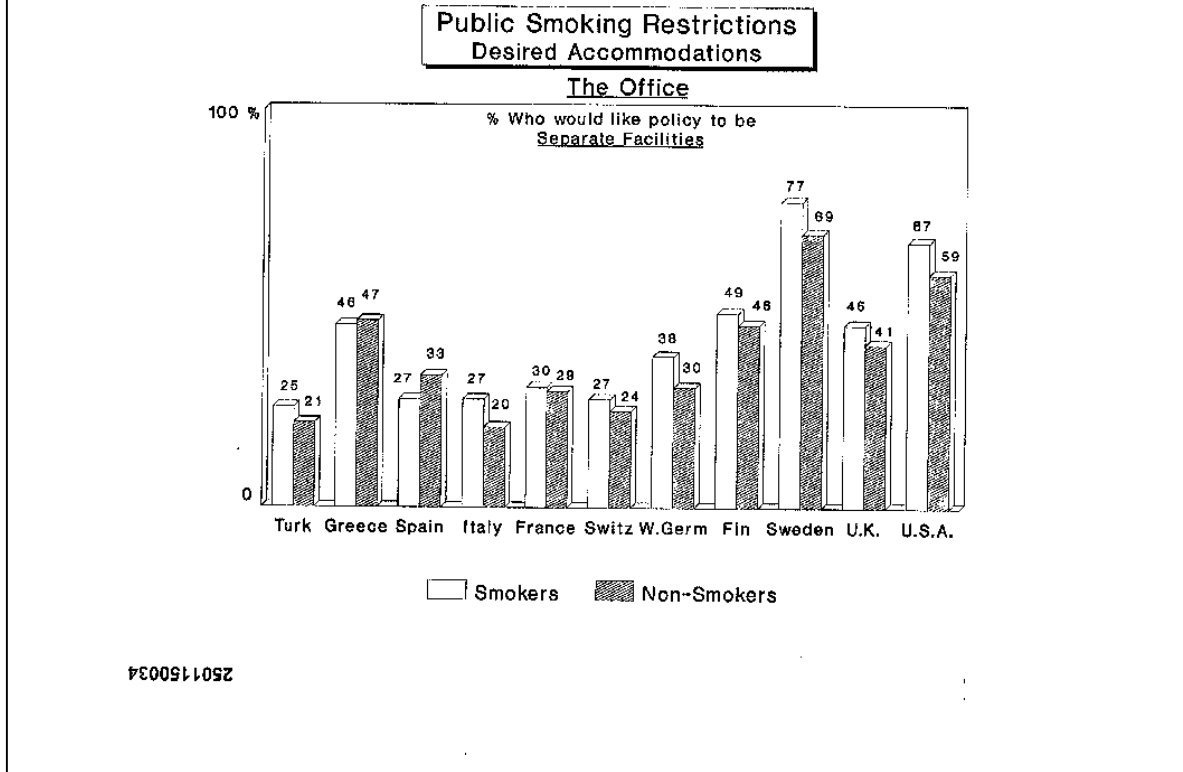
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Fig. 12



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Fig. 13



**What does the Federal Government plan to do in order to decrease tobacco consumption?**

In consideration of the high smoking prevalence, in particular the increase of smoking among adolescents, and estimates of mortality due to smoking, as well as the accumulating evidence of the dangers of smoking and secondhand smoking, in August 1995, the Swiss Federal Council adopted an action plan to reduce tobacco use over a period of about 4 years. The initial comprehensive action plan intended to address tobacco tax and sponsoring of sports and cultural events, but not tobacco advertising.<sup>19</sup> However, this action plan was later drastically reduced due to financial constraints and to the following goals and strategies.<sup>25</sup>

- To decrease the number of new smokers (primary prevention)
- To increase the number of those who are willing to quit smoking (secondary prevention)
- To protect the non-smokers from secondhand smoke.

To achieve the above goals, following strategies were used:

- i. Inform objectively about the consequences of tobacco abuse;
- ii. Support those who are willing to quit;
- iii. Sensitize specific target groups (women and youth) for this problem;
- iv. Protect the non-smokers in their working environment.<sup>19, 25</sup>

To this goal, CHF 2.5 million (USD 1.6 million), or approximately CHF 0.36 (USD 0.23) per capita, were provided annually by the federal government over a time period of 4 years, between 1996 and 1999. Taken together, the money spent on tobacco control sums up to around CHF 5 million (USD 3.2 million) per year, or CHF 0.72 per capita (USD 0.46), with a 50% contribution by non-governmental organizations. The tobacco industry and its allies however, spent 20 times more, i.e. around CHF 100 million (USD 67 million), or CHF 14.30 (USD 9.15) per capita, to promote smoking annually during the same time period.<sup>26</sup>

Conspicuously missing from the list of strategies are structural interventions, such as tobacco advertising ban, increase of tobacco excise tax, or prohibition of smoking in public places, except for workplace smoking. Even though a global quantitative goal of reduction of smoking prevalence from over 30% to less than 30% was set, this quantitative goal was seen as unrealistic considering the financial resources, and was given up early in the project.<sup>27</sup> An evaluation by the Institute for Social and Preventive Medicine of the University of Berne criticized the plan for the lack of financial resources, lack of focus on specific themes of intervention, lack of cooperation between partners of tobacco prevention, and inadequate program coordination, and program and data management by the Federal Office of Public Health.<sup>27</sup>

In the draft of the tobacco prevention program 2001-2005, strengthened by new developments in the US (such as tobacco litigation, revelations of tobacco industry secret documents, favorable results of studies on smoke free workplaces and public places), in the European Union (total advertising ban, except for points of sale), as well as two Swiss studies commissioned by the Federal Office of Public Health on the social and economic costs of smoking, and the relationship between taxation and smoking prevalence, the importance of legal regulatory measures for tobacco prevention is emphasized.<sup>24</sup>

Eine der dringlichsten Massnahmen stellt die Verschärfung der gesetzlichen Vorschriften dar, ein Fazit, das bei Experten aus aller Welt unbestritten ist, wie z.B. in den USA vom Center[s] for Disease Control and Prevention, in Grossbritannien von der Association for Public Health, bei der Weltbank und der WHO sowie von den Fachleuten der Eidgenössischen Kommission für Tabakprävention.<sup>24 p. 19</sup>

[One of the most urgent measures is the strengthening of legal regulations, an undisputed conclusion among experts from all over the world, such as the Centers for Disease Control and Prevention, USA, the Association for Public Health in UK, the World Bank, and the WHO, as well as experts of the Swiss Federal Commission for Tobacco Prevention]

The five areas of legal measures are “advertising exclusively targeted at smokers, taxation of tobacco products, additional financial means [for tobacco prevention], prohibition of [tobacco] sales to minors, declaration of tobacco products [harmful substances in tobacco and tobacco smoke, such as nicotine and tar, problem of outdated methods of determining levels of these substances in cigarette smoke].”<sup>24 p. 20</sup> In addition, international coordination of prevention efforts and the cooperation with international organizations is given a specific place in the list of objectives, such as the ratification of the Framework Convention of WHO.

Most importantly, unlike in the 1996-1999 version of tobacco prevention program, the tobacco industry is named explicitly as a special interest group and major player in tobacco promotion that needs to recruit new smokers in order to compensate for those who quit and those who die. Therefore, new laws (food law) that limit tobacco advertising and promotion are

considered in this five-year tobacco prevention program of the Federal Office of Public Health.<sup>24</sup>  
p. 28 In justifying these potential legal measures, the Federal Office of Public Health can rely on several recent scientific publications on tobacco advertising, promotion, and taxation and smoking among youth.<sup>24 p. 28</sup>

***Which tobacco firms are represented in Switzerland, how are they organized, and what is the power structure within the tobacco industry?***

The international tobacco companies have gradually merged with or ousted local tobacco companies so that today almost the entire Swiss cigarette market is controlled by international companies. While twenty years ago, 43% of cigarette brands smoked were Swiss brands, the four Swiss brands' current market share has declined to 28% by 1988.<sup>28</sup>

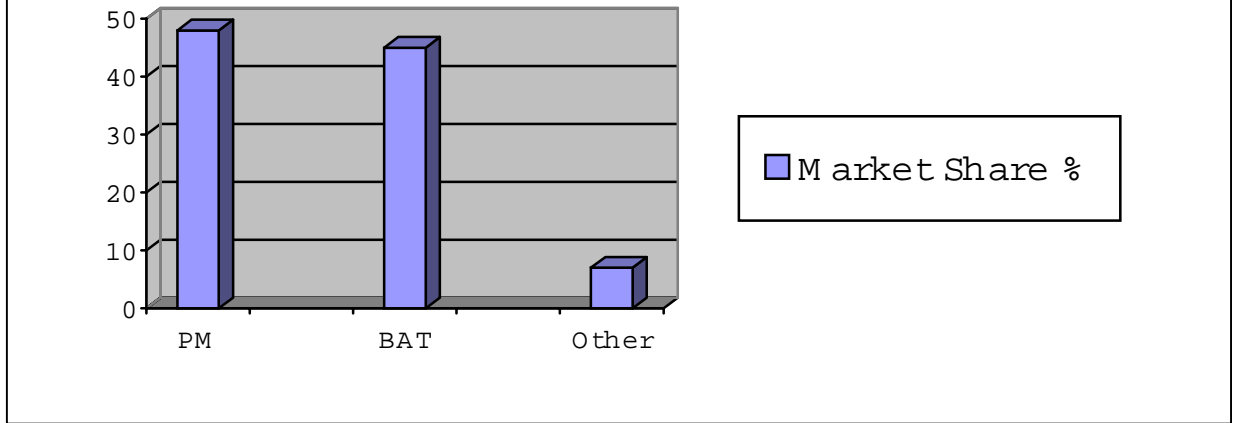
In terms of sales volume in cigarette units, F.J. Burrus, had a market share of 29.6% when still independent and the largest Swiss cigarette producer. F.T.R. (Fabriques de Tabac Réunies)-Philip Morris (PM), the largest international cigarette producer in Switzerland, had a share of 30.9%.<sup>29</sup> Less than 10 years later, in 1990, Burrus' market share had declined to 20.6%, while Philip Morris' market share had increased to 39%.<sup>30</sup> The corresponding numbers for 1998 were approaching 50% for PM and only 26.3% for F.J. Burrus-Rothmans (Rothmans bought Burrus in June 1996<sup>31</sup>) despite the merger of Burrus with Rothmans in 1996. Philip Morris' Marlboro alone occupied 24.5% of the market share in volume.<sup>29</sup>

The major tobacco companies currently represented in Switzerland are, in the order of market share: Philip Morris (PM), F.J. Burrus-Rothmans (BR), British-American Tobacco (BAT), and RJ Reynolds (RJR). In January 1999, BAT and Rothmans announced their merger, resulting in another company with a Swiss market share of approximately 45%, close to that of PM, thereby virtually decimating the number of cigarette producers in Switzerland, and with two companies sharing over 90% of the market<sup>29, 32, 33</sup> (Fig. 14). The former BAT factory in Geneva was closed, and the entire production was moved to Boncourt, a small village of 1,400 in the canton of Jura.<sup>34, 35</sup> Two hundred fifty employees in Geneva lost their jobs, and it was speculated that Geneva with WHO and Guy-Olivier Segond, Cantonal Council of Geneva and Minister of Health, who is an outspoken anti-tobacco activist, and who had embarrassed the tobacco industry during the international meeting of tobacco industry in Geneva in 1998 with counter-meetings and demonstrations,<sup>36</sup> was not an attractive site for the tobacco multinationals.<sup>35</sup>

Another deal of interest to Switzerland was the sale of RJR's International Tobacco to Japan Tobacco.<sup>37</sup> Fortunately for the employees of RJR in Dagmersellen, in central Switzerland, and in Geneva, Japan Tobacco did not have any worldwide infrastructure of its own, therefore making the 220 jobs in Dagmersellen and the 400 jobs at the world headquarters of RJR in Geneva relatively safe.<sup>37</sup>



Fig. 14  
Tobacco companies' market share  
in Switzerland in 1999



More interesting than the obvious mergers between or sale of cigarette companies is the behind the scene entanglement of powerful economic interests. Rothmans belongs to two thirds to Compagnie Financière Richemont in Zug, Switzerland, a luxury goods producer that owns, through Vendôme Luxury Group, famous brands like Cartier, Dunhill, Montblanc. To one third, Rothmans belongs to the South African Rembrandt Group, both of which are controlled by the Johann Rupert of South Africa, who will give up his majority share in Rothmans for a 35% participation at BAT<sup>33,38</sup>. BAT in turn, had merged its finances division with the large Swiss insurance company Zürich-Versicherungen in 1998<sup>33</sup>.

Despite the rapidly changing scene in the tobacco industry and tougher regulations in many countries, Richemont has been able to increase its net earnings by 19.6% between 1998 and 1999. The tobacco sector is considered a cash cow which enables Richemont to invest quickly and expand.<sup>39,40</sup>

The tobacco industry -- both cigarette and cigar manufacturers -- is organized in the Federation of Tobacco Industry called “Fédération de l’Industrie Suisse du Tabac” (FIST). The cigarette manufacturers are organized under the Association of Swiss Cigarette Manufacturers, called “Association Suisse des Fabriquants de Cigarettes” (ASFC), and later – most likely as a consequence of the dismantling of the cartel of cigarette manufacturers in Switzerland at the end of 1992 – Association of Swiss Cigarette Industry, “Communauté de l’Industrie Suisse de la Cigarette” (CISC).

## Chapter 2. Methods

This analysis of the tobacco industry's efforts to influence tobacco-related policy in Switzerland is, for the most part, based on tobacco industry's documents published on the internet subsequently to litigation cases against tobacco industry and Swiss newspaper articles. Additional information on Swiss governmental and non-governmental institutions and organizations, pro-tobacco as well as anti-tobacco, were gathered through internet search and a few interviews. It was difficult to obtain information from individuals and organizations working on tobacco control in Switzerland.

The bulk of tobacco industry documents were downloaded from the Philip Morris (PM) documents site ([www.pmdocs.com](http://www.pmdocs.com)), because PM has been the single most important cigarette producer in Switzerland and, more importantly, PM has been the strongest and most proactive driving force within the tobacco lobby in Switzerland. Therefore, tobacco industry is often used interchangeably with Philip Morris. We believe that the fact that we could not consider BAT documents in Guildford, UK does not significantly reduce the comprehensiveness of the report, as the international tobacco industry operated through the national manufacturers association for all of the important policy matters, where Philip Morris played a leading role when it came to fighting tobacco control measures.

Given the inconsistent entry of fields for the electronic search of documents on the industry document web sites (accessible through [www.tobaccoarchive.com](http://www.tobaccoarchive.com)), the search proceeded from general single search terms, such as "Switzerland," to more complex Boolean terms, as more specific terms became available from the documents initially found by general term searches. Because Philip Morris' European Headquarters and its research laboratory (Science and Technology, S&T) are based in Switzerland, a fair number of documents were not specific to Switzerland. For the same reason, many documents gave insight into the networking strategies of Philip Morris' marketing and lobbying operations. The specific search terms that proved most useful were mostly the names of key players, both opponents and proponents of tougher tobacco regulations, as well as key tobacco policy-related publications and events in Switzerland.

Names, events and publications from other countries were also considered if they were of interest for Swiss tobacco policy and tobacco industry's counter attacks. Finally, closely related documents could sometimes be found using adjacent document bates numbers, or using document types.

Within specific events and issues, a chronological approach will be used and the major players examined.

## Chapter 3. The Early Days of Smoking and Health Debate in Switzerland

As in the United States and the UK,<sup>8 p. 32, pp. 108-170, pp. 201-234</sup> by the mid-1960's, scientists working inside the tobacco industry in Switzerland had accepted the conclusion that smoking caused disease in smokers. For example, researchers of the research laboratories of Fabriques de Tabac Réunies (FTR), Philip Morris' cigarette unit in Switzerland, privately concurred with the conclusions of the landmark 1964 US Surgeon General's report (also known as the "Terry report," after Luther Terry, the US Surgeon General at the time),<sup>41</sup> while at the same time worrying that it would lead to increased regulation of the tobacco industry. Max Häusermann, Scientist with the FTR laboratory in the 1960's, later Vice President for Research and Development, wrote in the FTR research report 1962 - 1965:

The [1964 Surgeon General's] Report's only positive effect – if there is any – is that it compels the tobacco industry to adopt a common view towards the problem:

*Whether we like or not, we must adopt the standpoint that tobacco smoke may be a health hazard for certain individuals.*<sup>42 p. 2</sup> [emphasis added]

Even so, they "welcomed" the 1964 Surgeon General's report, because they felt that it facilitated tobacco industry's own research into smoking and its effects on health, without having to pretend any longer that there was no association between smoking and health:

...Up to this day, these subjects could not be investigated freely by industrial research, because the tobacco industry was afraid that the adoption of certain hypotheses implied an avowal [sic] of culpability. It can be foreseen now, however, that the [Surgeon General Luther] Terry Report and its immediate practical consequence of cigarette labeling, have eliminated much psychological obstacles.<sup>42 p. 2</sup> [emphasis added]

Häusermann then continues to discuss smoking and health related issues in a way that shows that these scientists were earnestly looking for safer alternatives to the existing cigarettes at the time:

We then can frankly attack the following problems:

- Objective measures of the tumorigenicity of tobacco smoke to certain animals.
- Reduction of the tumorigenicity of tobacco smoke (see later).
- Seek for a substitute for the smoking habit satisfying the same of equivalent needs.

...It would be an illusion to think that a practical result from this kind of research might be reached in a short time. *It is even possible that practical remedies to the tumorigenicity of tobacco smoke are devised and applied in practical cigarette engineering, but proof of a reduction of tumorigenicity cannot be furnished before many years.*

...The underlying hypothesis is that the "tar" delivery of a cigarette is quantitatively related to the tumorigenicity of its smoke. There are experimental data supporting this theory, ...

...*It seems reasonable, however, to admit that a reduction of the total amount of particular [sic] smoke should result in a reduction of the health risk.* This opinion has been expressed in a paper published by our Department (Paper # 20, Appendix #4) [P. Waltz and M. Häusermann: "Neuzeitliche Filterzigaretten und ihre Auswirkungen auf die Rauchgewohnheiten und Rauchinhaltsstoffe." (New filter cigarettes and their effects on smoking habits and inhaled smoke contents) *Z. Präventivmed.*, 8, 73-98 (1936)]

...*The problem of the reduction of the (weak) tumorigenicity of tobacco smoke can only be attacked with success if the biological research is accompanied by extensive chemical and physical studies on the formation, composition and modification of tobacco smoke.*

...The experimental difficulty encountered with smoke condensate resides in its low or very low tumorigenicity. In order to obtain a significant increase of tumors in the experimental animals, very high concentrations of smoke condensate must be applied. Not only is this kind of experimentation far away from the reality of smoking, but the *acute toxicity of smoke condensate* (e.g., due to its nicotine content) or of total smoke (e.g., due to its carbon monoxide content) may interfere. *This is probably the main reason why experimental lung cancer cannot yet be induced in animals exposed to cigarette smoke.*

...*Biological research, however, would be nonsense should it not give an answer on how to reduce the tumorigenicity of cigarette smoke.* Two extreme attitudes towards the cause of tumorigenicity of tobacco smoke are possible:

- 1) The tumorigenic activity is due to tobacco smoke as a whole. Isolated smoke constituents will not behave in a representative manner.
- 2) The tumorigenic activity of tobacco smoke is due to a limited number of tumor initiating and tumor promoting substances and factors (Wynder and Hoffman).

*The first attitude is highly satisfying from a pure philosophical standpoint, but it excludes any serious experimental investigations about the origin and cause of the tumorigenicity of smoke.* The only practical conclusion that can be drawn from this thesis is to reduce the amount of smoke as a whole through appropriate means. *This reduction should permit to push the threshold of tumorigenicity beyond the maximum man's age. But as a non selective reduction of smoke is theoretically impracticable, even this solution might not be wholly satisfying.*<sup>42 pp. 2-45</sup> [emphasis added]

In contrast to these privately expressed views, however, the Swiss industry's public position – that there was “controversy” regarding whether smoking caused disease – remained unchanged. As in the United States, the primary public representative for the tobacco industry was not the companies, but an association designed to insulate the companies from direct public accountability and scrutiny. The Swiss Association of Cigarette Manufacturers (ASFC, Association Suisse des Fabriquants de Cigarettes) serves this function in Switzerland. When asked by a journalist about the conclusions in the US Surgeon General's report, A. Artho, most likely a scientist with Burrus, and a member of the Scientific commission of ASFC, sidestepped the issued of lung cancer and put the standard tobacco industry spin<sup>8 pp. 48-56</sup> on the Surgeon General report's weak conclusions on nicotine addiction:

Roughly, the course of the interview was as follows. Artho said that the U.S. Surgeon General's Committee report was a good one in that it was independent. He stressed that nicotine was absolved from blame and that the report had said smoking was beneficial for mental health. The report said nothing new on the risks of smoking. .... Artho had said that there was obviously a need for more research on the effects of filters, etc.<sup>43 p. 1</sup>

At the same time, in news interviews, the members of the Scientific Commission of ASFC were very careful not to admit any possible negative health effects of smoking. The Scientific Commission consisted of industry scientists, each representing an individual cigarette manufacturer in Switzerland. It had an advisory function and advised the Swiss Association of Cigarette Manufacturers in scientific matters, including measures to be taken in the smoking and health “controversy” in Switzerland:

...Glasson [president of the scientific commission of ASFC], who by this time was very agitated and worried, mentioned that he had been unable to get from ASFC, a clear authorisation of what he could say and had no time to refer to ASFC the text of a statement. Wyler [a public relations specialist from Geneva, who came to the meeting of the Scientific Commission of ASFC on January 31, 1964 to help Glasson to prepare the TV interview] had a text ready, which Glasson didn't much like. Waltz, Ceschini and I saw a copy and suggested that it went too far in referring to “the noxious materials in smoke which must be removed,” it tacitly admitted the whole case.<sup>43 p. 2</sup>

In a confidential inter-office correspondence of Philip Morris, H. Gaisch, Director of Science and Technology at FTR (Fabriques de Tabac Réunies, PM Switzerland) Neuchâtel, Switzerland, to J. Hartogh, Vice President, Corporate Affairs and Headquarters Marketing, Philip Morris EEC, suggested that they use standard tobacco industry arguments that the evidence linking smoking and disease was just “statistical.”

Perhaps the “moderation” argument has to be constructed in terms of common sense leaving aside all epidemiologic consideration deliberately, justifying this by pointing out that almost any theory could be supported by a deliberate selection of the statistical data available today.<sup>44</sup>

At the same time, Gaisch noted that the industry was working to make a safer cigarette:

3. Scientific developments are ongoing to eliminate or reduce such smoke components for which reasonable scientific evidence is available that this could possibly be beneficial to the smoker.<sup>44</sup>

These interchanges reflect the growing ambivalence of the tobacco industry during the second half of 1960’s and 1970’s toward the smoking and health issue. Initially, the tobacco industry made earnest efforts to identify the carcinogenic components of cigarette smoke in order to make smoking less harmful. When this failed, the tobacco industry went into denial and focused on ways of minimizing foreseeable damage to its profits due to governmental restrictions and declining social acceptability of smoking.

Very early on, the tobacco industry realized that, in order to make it harder for the legislature to advance any restrictive measures or for the public to restrict the tobacco industry via the ballot, the declining social acceptability of smoking and the tobacco industry had to be arrested. A 1988 long range plan of Philip Morris EEMA suggested:

Increasingly, the successful field manager, in addition to selling cigarettes and beating the competition, must deal with other industry issues. *Interaction with regulatory officials is key in most markets and direct communication with consumers on defending their rights and smoking acceptability is now a major concern...*

*We will develop and mobilize all resources – internal PM, external agencies and consultants, the industry and NMA’s [national (tobacco) manufacturer associations], and all potential allies – to fight and to halt the deteriorating social and legislative trends against tobacco; we will focus particularly on Scandinavia/Finland, Switzerland and the GCC [Gulf Cooperation Council, includes Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates],...*

*Resist the deterioration in the public attitude towards smoking. Concentrate upon the ETS issue and smoking restrictions,... Undertake aggressive PR to counter misinformation and bias, in Finland, Sweden and Switzerland, in particular.<sup>45</sup> [emphasis added]*

As early as 1989, Philip Morris had identified Switzerland as a key battleground in Europe.

## Chapter 4. Meetings and Workshops Organized by the Tobacco Industry

In Switzerland, as in the rest of the world, the tobacco industry has sponsored a variety of “scientific” symposia.<sup>46</sup> The goals of these symposia are generally threefold:

- Give scientific legitimacy to tobacco industry’s claims that there was no evidence that smoking and secondhand smoke was harmful to health.
- Publish the proceedings to create a citable source that could be used in political and legal proceedings, as well as to manipulate the scientific debate.<sup>47</sup>
- “Inform” the public about the industry claims (disguised as scientific facts) through invited journalists in order to “create controversy” about the effects of smoking and secondhand smoke.<sup>8 pp. 346-352</sup>

There is good evidence that data presented in industry-sponsored symposia on secondhand smoke are unbalanced and more likely to be authored by tobacco-industry affiliated individuals than journal articles or consensus reports on secondhand smoke prepared by independent bodies such as the US National Academy of Sciences or other similar scientific bodies.<sup>46</sup> Similarly, when controlling for article quality, peer review status, article topic, and year of publication, tobacco-industry affiliation of the author was the only significant predictor of the conclusion that passive smoking is not harmful to health.<sup>48</sup>

In the 1970’s tobacco industry sponsored research was being carefully organized and coordinated through the scientific committee of the Association of Swiss Cigarette Manufacturers. Rather than being a true scientific committee that gave unbiased advice on tobacco industry research, the scientific commission, which consists of scientists representing the various tobacco firms in Switzerland, followed scientific and societal developments with regard to the smoking and health issue and helped in formulating tobacco industry position papers, such as on secondhand smoke, indoor air quality, and addiction. Later the scientific commission more directly participated in public relations activities.<sup>49</sup> In an internal memo, Paul Isenring, Director of Industry Policy Coordination for Philip Morris Europe, Middle East, Africa, explains the composition and function of the scientific committee:

The Association of Swiss cigarette manufacturers has a so-called scientific committee. Prof. K. Bättig, Zurich, is the president and the companies are represented by their research people (PM until 2 years ago by Dr. Häusermann, now by Dr. Gaisch). The committee is coordinating all scientific smoking and health issues and gives its opinion and proposals on this subject. Furthermore, the committee is coordinating all research on smoking and health.<sup>50</sup>

One of the meetings between outside researchers, tobacco industry researchers, and members of the Association of Swiss Cigarette Manufacturers (ASFC), held on March 21, 1974, was more a cautious probing into the attitudes of tobacco industry sponsored researchers toward the issue of smoking and health, rather than a briefing of industry “consultants.” The tobacco industry also wanted to obtain information on what these outside scientists, all of which were at least partly funded by the tobacco industry,<sup>51</sup> thought about the industry “going public” with smoking and

health related information. The president of ASFC, F. Corbat, stated to the meeting participants that the purpose of the meeting would be two-fold:

- to get first hand information on scientific research
- to discuss the opportunity of public information on smoking and health aspects.<sup>50</sup>

The participating “outside” researchers were: E. Grandjean, Institute of Hygiene and Psychology on work: ‘Toxicological studies on the smoke of the cigarettes’; C. and R. Leuchtenberger, Swiss Institute for Experimental Cancer Research (ISREC): ‘Research on the biological effect of the cigarette smoke inhalation on lungs of animals’; G. S. Kistler, Department of Anatomy, University of Zurich: ‘Malignancy: a multifactoral [sic] process’; G. S. Kistler and P. Davis: ‘Acute toxicity of tobacco smoke’; K. Bättig, Scientific Institute of Comportment [sic], Zurich: ‘Psychopharmacological research on nicotine.’

Because none of the participating researchers really advised the industry to become politically more active on the issue of smoking and health – some explicitly advised the tobacco industry to stay away -- the then-president of the Association of Swiss Cigarette Manufacturers was frustrated after the meeting:

President Corbat fought [sic] the expression “toxicity” in the context of tobacco. He added that tobacco products are legally sold like alcohol and other products. He said that the industry would be considered to be a kind of a “public poisoner” and that it should be therefore possible to take position without entering the polemic. He has a bad feeling remaining only in the defense.<sup>50</sup>

A symposium held in Zurich on April 29-30, 1976, had a very different goal: rather than a forum for an open interchange with the scientific community, it was organized jointly by the tobacco industries of Austria, Switzerland, and Germany, as represented by their associations, as a two-day “scientific” conference “for the press on the beneficial effects of smoking.”<sup>52</sup> Many of the invited participants were tobacco industry consultants. These industry consultants were scientists who had been carefully chosen through intermediaries, such as public relations firms, so that the tobacco industry could be reassured that they had not expressed, and would not do so in the near future, views that were unfavorable for the tobacco industry, and who could publicly represent the tobacco industry’s positions without stating their ties to the tobacco industry.<sup>8 p. 289</sup> The meeting was broadcast by the Swiss television company. Press commentaries were described by P. Isenring, Director of Industry Policy Coordination for Philip Morris Europe, Middle East, Africa as:

...generally positive so far with some criticism about the onesidedness in the choice of the referees and their presentations....The Swiss radio, however, commented very positively. On the other hand, the Swiss anti-smoking league made a fierce public attack against the scientific sincerity [sic] of an industry-sponsored conference like this.”<sup>52</sup>

Isenring also noted:

In an industry round-table, the following problems were discussed: markets, products (light cigarettes), nicotine, the role of Government in a free society, freedom of choice of the consumer, fiscality, passive smoking, warning label, role of advertising. Approximately 30 journalists, mainly from Germany, Austria, and Switzerland, and a few from U.K., France, Belgium and Scandinavia attended. In conclusion: it was a valid and positive attempt of the industry to make the journalists aware of the ‘other side of the coin’, i.e. to establish the scientific controversy on smoking and health.<sup>53</sup>

We do not have further information on this meeting.

Just as the tobacco industry sponsored symposia to create controversy about the effects of smoking on smokers, they organized symposia on secondhand smoke, when secondhand smoke became the real threat to the tobacco industry due to the publication of the 1986 Surgeon General's report, *The Health Effects of Involuntary Smoking*.<sup>54</sup> One of the earliest such meetings on secondhand smoke was the Second Workshop on Environmental Tobacco Smoke organized by a tobacco industry consultant, Ragnar Rylander: "A Workshop on Effects and Exposure Levels," which took place on March 15 to 17, 1983 at the University of Geneva, Switzerland.<sup>55 p. 2</sup> (A first workshop had taken place in 1974, but we do not have any information on the first workshop.) It was part of a regular tobacco industry's public relations effort.

The conclusion of this major international symposium was that available evidence does not confirm that tobacco smoke in the air causes chronic health problems.

The report was published as a supplement to the European Journal of Respiratory Diseases. Introducing the report, chairman Ragnar Rylander of Sweden noted the subject has been widely discussed for many years. Government authorities frequently request precise answers on scientific issues relating to public health, the physician-researcher wrote.<sup>56</sup>

Rylander, the chair of the workshop and one of the three editors of the report, is one of the most active tobacco industry's scientific consultants in Europe. The budget allocated to him by Philip Morris in 1992 was "USD 60,000/year unrestricted research grant and USD 90,000/year consultancy"<sup>57</sup> and Rylander later served as a member of Philip Morris' IARC Task Force<sup>58</sup> which was established to stop or counter a study that the International Agency for Research on Cancer was conducting in Europe on the link between secondhand smoke and lung cancer. As a publication by the US Tobacco Institute (the tobacco industry's lobbying arm in the United States<sup>8 p. 39</sup>) for media distribution states, the proceedings from the second workshop on environmental tobacco smoke was published as a supplement in the *European Journal of Respiratory Diseases* in the same year. This workshop was the first of three workshops on secondhand tobacco smoke organized by the Tobacco Institute within 15 months in order to offset the impact of the 1986 Surgeon General's report on secondhand smoke and health.<sup>54</sup> The Tobacco Institute distributed the white paper on these workshops to the media just before the publication of the Surgeon General's report.<sup>55</sup> We do not know what influence this white paper had on the impact of the Surgeon General's report on the public in Europe, and in Switzerland in particular.



## Chapter 5. Creating Controversy around the Issue of Smoking and Secondhand Smoke

Despite the fact that the public health communities in Europe had not yet developed a comprehensive and unified strategy to approach the problem of secondhand smoke (or, as the industry prefers to call it, Environmental Tobacco Smoke [ETS]) as a public health issue, by 1987 the tobacco industry, spearheaded by Philip Morris, had developed detailed plans to head off restrictions of smoking in public places in Europe in order to maintain the social acceptability of smoking.<sup>59</sup> The tobacco industry in the US had understood the importance of this issue to its viability in the 1970's.<sup>8 pp. 391-394, 60 p. 7-8</sup>

As in the United States and elsewhere, the tobacco industry's umbrella strategy was (and remains) to distract the public from the major health problems related to smoking, and instead frame the issue of smoking as one of "free choice" (smoking), "individual freedom and responsibility" and "courtesy and tolerance" (passive smoking). At the same time, the industry would continue to work to discredit epidemiological studies that linked smoking and passive smoking with disease, claim that restricting smoking would have major negative economic consequences for society, and stir up "controversy" whenever opportune. These tactics were enforced through the recruitment of carefully identified and chosen scientific "consultants"<sup>8 pp. 327-337, 58 pp. 33-34</sup> to combat increasing awareness of the dangers of secondhand smoke and by trying to divert attention to indoor air quality (IAQ) in general and to promote ventilation as a solution to the problem of secondhand smoke pollution.<sup>8 pp. 410-412</sup>

### **Secondhand Smoke and Nonsmokers' Rights**

Swiss and European governmental publications from 1988 clearly identify secondhand smoke (or environmental tobacco smoke, ETS) as a major source of indoor air pollution.<sup>61, 62</sup> According to the official Swiss government report:

Tobacco is one of the commonest contaminants of the air both in private residencies and in offices.<sup>62 p. 34</sup>

#### (a) Environmental Tobacco Smoke (ETS)

Generally speaking, this is by far the most important source of chemical pollution in indoor air. It is now generally accepted that ETS may cause cancer of the lung. Sick building syndrome is statistically more pronounced in smokers than in non smokers (Skov et al.) and there is an excess of symptoms in non smokers and ex-smokers exposed to ETS compared with the same non exposed categories (Robertson\* et al. 1988).<sup>61 p. 11</sup> [\*this is NOT Gray Robertson, the president of ACVA/HBI; see further below]

The minutes of a Philip Morris EEMA (EFTA, Eastern Europe, Middle East, Africa)/EEC (European Economic Community, now called EU, European Union) strategy meeting held on May 11, 1987 summarizes the tobacco industry's strategies:

#### – Objectives of the ETS Strategy (from the EEMA Plan)

End goals:

- Resist *smoking restrictions*
- Restore *smoker confidence*

Prerequisites:

- Reverse *scientific and popular opinion*
  - Restore *social acceptability* of smoking
  - Preserve *product liability* defences
  - Components of the ETS Strategy  
Targeted PA/PR Activities:
    - Public
    - Politicians
    - Competent authorities
    - Unions
    - Employers
    - Airlines
    - Hotels, restaurants, cafeterias
    - Climate Development and Support:
      - Seminars
      - Briefings
      - Research (basic and applied)
      - Publications
      - Professional body participation
      - Established Third Parties
        - Scientific experts (identification, organization)
        - ACVA-type [ACVA, later renamed Healthy Buildings International (HBI) is a company that provides consultations on indoor air quality that routinely downplays the importance of secondhand smoke; it was built in large part through secret tobacco industry funding. Despite its strong ties to the tobacco industry, ACVA/HBI presents itself as an “independent expert.” ACVA/HBI is discussed in detail later in this report.]
        - While a strategy is market-specific (its targets, in particular), the underlying research is not.
- Responsibilities within PM
  - The responsibility for the targeted PA/PR activities rests with the market responsables [sic] (and their CA [corporate affairs] staff), and the markets carry the budgets. This is also true for ACVA-related activities.
  - The identification of 3<sup>rd</sup>-party scientists will be undertaken by HGA [Helmut Gaisch of FTR Science and Technology, PM research laboratory in Neuchâtel, Switzerland] with the assistance of an IAPAG- related [we do not know what IAPAG stands for] scientist (J. Rupp [a lawyer at the Washington DC law firm of Covington and Burling, which handles political matters for the tobacco industry] to nominate) who will make initial contacts.
  - HGA [most likely Helmut Gaisch, Head, Research and Development, Philip Morris EEMA] will carry the budget for all 3<sup>rd</sup>-party scientist activities.
  - The coordinators for all ETS Strategy issues within the respective Regions are MDH [Michael Horst, Vice President, Philip Morris External Affairs, in Brussels] (EEC) and KJW [K. Ware, director of Planning] (EEMA).
- Industry Coordination  
It is preferable to build up a coordinated, international industry effort. Ideally this would be under the auspices of INFOTAB [a coordinating body created to facilitate communication among and on behalf of the multinational tobacco companies; its original name was ICOSI (International Committee on Smoking Issues)]. In many markets it will be advisable or even necessary to work through the NMA [national manufacturers’ association] or an industry club. Nevertheless it was understood that PM must forge on and lead/act unilaterally whilst the industry coordination is being established in individual markets. This coordination should ultimately lead to integration with respect to the buffer entity.
- PMI [Philip Morris International] Support  
Back-up available:
  - *Experience gained in other parts of the world* (U.S., Hong Kong, (hotels and restaurants), Australia (airlines))
  - Videotapes
  - Brochures (issue-specific, target-specific)
  - Surveys (design of)

- Press kits
  - Booklets to address public officials in lay terms (e.g., ACVA material)
  - Invitations to PM-sponsored events
  - Coordination of media briefings
  - Follow-up (proposed/requested):
  - Need for follow-up generated by media briefings (vehicles to be put in place; material to be developed: information has to be kept flowing so as to sustain the momentum created by such briefings). D. Badler, P. Grandjean and P. Maglione are to prepare a draft paper to be discussed by them in New York on June 15 and then propose to participants of ETS meeting. They will also investigate the ETS FYI idea [we do not know what FYI stands for]
  - Capitalization worldwide on efforts in U.S.
  - Proposed briefings on U.S.-based correspondents to newspapers published in EEMA-EEC regions and US-based wire service editors and reporters
  - Generic advertising campaigns
- Remarks:
- The need for flexibility was stressed to take into account the idiosyncrasies of each market.
  - Media briefings should be held only when the follow-up capability is established.
  - The product liability implications of what is said and communicated in the course of media briefings and elsewhere must be borne in mind.
  - ACVA must be perceived to be at arm's length from the industry, including in media briefings. It's [sic] role at most *should seem as yet another third party expert amongst others.*
- Other Support (needed or forthcoming)
    - Public speaking training to be provided for third-party experts
    - Suitable environment to be created for third-party scientists (e.g., opportunity to meet peers and exchange ideas, access to information)
    - Database being set up to provide references and arguments on detailed issues met in EEC. (P. Maglione [Director of Public Affairs, Philip Morris EEC])
    - Possibility of access to pan Arab media through participation of PM in industry-media representatives meeting next autumn (JBR [J. Rupp of Covington & Burling law firm] to follow-up with KIF [unclear who this is])<sup>59</sup>

This document demonstrates impressively how comprehensive and global the strategies were that the tobacco industry used to undermine tobacco policy. Most important, the author of this plan, Jean Besques, from corporate affairs, Philip Morris EEMA, emphasizes a level of international cooperation and knowledge transfer rarely exhibited by the health community.

The media was used to disguise tobacco industry's claims as "neutral" journalist reports by asking the journalists not to identify the tobacco industry as the source of the newspaper articles after giving interviews, thereby muddling the source of information. A memo by J.-M. Theubet (Philip Morris Europe) to Mary W. Covington (Philip Morris International) entitled S[moking] + H[ealth] Press Relations, Switzerland informs:

Please find enclosed 2 articles by René and Claude Langel, Editors in chief of the Sunday edition of "Tribune – Le Matin," Lausanne. We gave them an interview and *asked not to publish the name of our company.* As you will see, they wrote interesting articles *for* the tobacco company.<sup>63</sup> [emphasis added]

The tobacco industry also lobbied members of parliament through the national manufacturing association and other less evident allies, including the advertising association, employers association, and hotels and restaurants association. Specific examples of these tobacco industry strategies will be given later.

Decisions on industry position statements, such as on scientific issues, had to be cleared by legal consultants from one of the law firms that worked for the tobacco industry. A passage from a monthly report by Helmuth Gaisch, Director of Science and Technology, FTR/Philip Morris Switzerland, to Stephen C. Darrah, Vice President, Operations, Philip Morris EEC Region, and Ron Lively, successor of Stephen C. Darrah in the following year (1990), makes the point of tightly controlling public communications explicit:

Upon invitation of HGA [Helmuth Gaisch, Director of Science and Technology, FTR/Philip Morris Switzerland] a meeting was held in Neuchâtel with the purpose of improving the coordination of IAQ [indoor air quality]-related activities. The following persons were present: M.C. Bourlas, H. Brass, PIC, F.H. Dulles, G. Giscard-d'Estaing, M.D. Horst, C.E. Lister, P. Maglione, IAM, PEM, S.C. Parrish, M. Pottorft, HER, J.B. Robinson, J.P. Rupp, and C. von Maerestetten. ...

...The results could be summarised as follows: The objective of exchanging information in sufficient detail on all on-going projects was attained, although some uncertainty remained as to the nature of what is being done in the USA. The intention of those present regarding cooperation with other companies was discussed in detail and should result in greater flexibility for future dealings. A decision was made on improvements to the on-going collaborative projects between the various [Philip Morris] Corporate Affairs Departments, B-M [Burson-Marsteller, a public relations firm], C&B [Covington & Burling, law firm] and S&T [Science & Technology, the research branch of FTR, PM Switzerland], designed to transform "Science" into "News." For example, the present "First Clearance Loop" consisting of LISTER/TEEL[E] [C. Lister and K. Teele, both of Covington & Burling] + HGA [Helmut Gaisch, Director of S&T] is going to be enlarged to include S. Parrish [Head of Worldwide Regulatory Affairs, later Senior Vice President of External Affairs, PMI].<sup>64 pp. 10-11</sup>

It is important to realize that, even though the tactics employed in Switzerland were customized to its particular social and political situation, the basic ideas behind these tactics were in no way unique to Switzerland.[Glantz, 1996 #105; Philip Morris, 1996 #70] More commonly, they were developed in consultation with Philip Morris' European and international headquarters, as well as the other tobacco companies (often through ICOSI/INFOTAB) using the strategies that had already been successfully tested in other countries. In 1993, the Philip Morris long range plan 1993-1995 discusses the need for a centralized coordination of research and other industry activities in an era of declining social acceptability of smoking:

Given the European-wide dimension of the social-political approach, logic requires that development and undertaking of actions must, to a large extent, be coordinated, concerted and driven by CA [Corporate Affairs] HQ's [headquarters] EEMA and EEC in terms of research, communication and guidance.<sup>65</sup>

Because "decisions to prohibit smoking are made at all levels of society,"<sup>66 p. 2</sup> and because "smoking restrictions symbolize fundamental shifts in societal mores and attitudes towards health and the environment, but increasing smoking restrictions also symbolize the effectiveness and perseverance of the anti-smoking and health lobbies, ... a successful long-term approach to ETS will require direct and indirect communication with the following groups of people."<sup>66p. 2</sup> As listed in a memo from Gérard Wirz to multiple recipients within Philip Morris Europe these people included:

Government:

- Labor Ministries
- Health Ministries
- Environment Ministries
- Safety & Health regulators
- Transport & Tourist ministries

- Press:
- Social journalists
- Health/Science journalists
- Specialised Press (Horeca, unions, engineering, etc.)

Potential Allies:

- Unions
- Horeca Associations
- Employers Associations
- Chefs and gastronomy associations
- Thinks [sic] tanks and policy centers
- Economic and accounting groups
- Suppliers
- Ventilators and IAQ groups

Important Decision Makers:

- Workplace managers
- Restaurateurs
- Building owners
- Airline managers
- Airport managers
- Rail operators
- Hotel managers
- Works Council Representatives
- Managers of public places

Influencers of Future Social Acceptability:

- Philosophers/Ethics
- Psychologists
- Sociologists
- Statisticians
- Management Professors
- Occupational Safety & Health professors
- Public policy experts
- Legal/Insurance leaders
- Hotel and restaurant schools
- Antis and other activist groups
- Tobacco industry<sup>66 p. 2</sup>

The tobacco industry key strategists had to admit to themselves that, in order to win allies for their cause, they needed to develop winning messages that were tailored to the potential allies' interests. They also realized, as elsewhere, that it was in their best interest to avoid health as an issue:

*My second observation is that very few of these target audiences are interested in our health-related messages. Instead, they seek solutions and ways to improve their own standing.*

PM has not fully developed winning messages for each of these groups partly because of our approach to message development. In the past, *our approach has always been based on countering anti-smoking claims, which automatically places the debate on the least favorable grounds for us, i.e. health.*

What we will do on April 30 *is prioritize the target groups and develop the 5 to 10 message points we want to communicate to these target audiences. Tony Andrade will give on-the-spot legal clearance.*<sup>66 p. 3</sup> [emphasis added]

Unlike the well organized and well funded, comprehensive analyses and strategies of the tobacco industry, the public health advocates limited themselves to sporadic or limited actions. They never mobilized the political will to overcome financial constraints, despite the fact that the political structure of a strongly federalistic system with much autonomy to local authorities favors grassroots action at the local level, which has proven to be the most effective venue for tobacco control in the United States. For similar reasons, obtaining detailed information on earlier tobacco control efforts from the tobacco control side was very limited. As a draft of a Philip Morris Corporate Affairs Plan in 1987 recognized:

A gradual anti-tobacco trend continues in Switzerland but opponents have not yet developed professionally managed, well financed organizations. However, the threat to our business is substantial and sufficiently immediate that it is critical to build a Philip Morris corporate affairs program in Switzerland that complements and supplements that of the ASFC (NMA [national manufacturers association])<sup>67</sup> bates 2501254719

The following newspaper debate, which occurred earlier in the late 1980's, is one of the rare concerted media efforts undertaken by public health advocates to work with journalists who had not been "persuaded" by tobacco industry media briefings beforehand.

### ***A Case of Media Effort by Public Health Advocates***

While the tobacco industry, with its almost unlimited financial resources, was capable of leading well-organized, and often disguised, media campaigns, there had been successful media efforts by tobacco control advocates earlier, as illustrated by three letters to the editor of a well-regarded Swiss newspaper. The letters to the editor were published in the *Neue Zürcher Zeitung* (NZZ), one of the most respected newspapers in Switzerland, and often the only Swiss newspaper available abroad. These letters appeared on October 4, 1988, as a reaction to an accusation and complaint from the tobacco industry following a health-oriented TV program, called "Schirmbild," aired on September 8, 1988, in which the evidence for harmful effects of secondhand smoke on health were discussed. We do not have the details of the program itself.

According to the letter written by the program editor to the newspaper, the tobacco industry in a press release on September 15, 1988, accused the editor of the TV program of "irresponsibility, one-sided choice of research results, and overestimation of unproven assumptions." (We could not find the original press release.) The editor of the program states in her letter to the newspaper editor that the tobacco industry had already pressured the program editorial office even before the program was aired in an effort to prevent it from being aired altogether. The editor justified the program by citing several studies from the USA and Sweden, which show the health damaging effects of passive smoking. The editor of the TV program also mentioned the ruling of the highest Swedish insurance court that passive smoking was one of the recognized causes of work-related diseases.<sup>68</sup>

One of the other two letters, published in the same newspaper issue, was written by Theodor Abelin, Professor of Social and Preventive Medicine in Berne, Switzerland, and an expert in smoking-related health issues, who has been working on the smoking and health issue since early 1960's. Abelin reinforces the scientific arguments against secondhand smoke brought forth in the TV program and cautions the newspaper editors not to simply "take over the

vocabulary of the tobacco industry,” who tried to ridicule the anti-tobacco statements made in the program.<sup>69</sup> The third author, Inge Spillmann-Thulin, executive director of the Swiss Association for Non-Smoking (later called Swiss Association for Smoking Prevention), points out the polemic argumentation of the tobacco industry as a potential indicator of the tobacco industry’s worry about similar court decisions in Switzerland as in Sweden.<sup>70</sup>

We do not know whether there was a response from the tobacco industry. Whatever the case, this was one of the rare instances where several public health advocates made a coordinated effort to publicly confront tobacco industry’s efforts to downplay the health effects of secondhand smoke.

### ***The Swiss “Smoking and Mortality in Switzerland” Brochure***

In Switzerland, the first major confrontation between the public health advocates and the tobacco industry over an official publication was triggered by a brochure issued jointly in 1989 by the Swiss Federal Office of Public Health, the Conference of Cantonal Directors of Health Affairs, and The Swiss Association for Smoking Prevention, entitled “Smoking and Mortality in Switzerland.”<sup>71</sup> This report was intended to follow World Health Organization’s recommendation and example to publish epidemiological data on smoking and mortality in Switzerland that would serve decision making in health policy. The main statement of the brochure, based on an extensive review of the scientific literature and written in a format that was intended to be useful to policy makers, was that smoking, including secondhand smoke, caused approximately 8,000 to 10,000 deaths in Switzerland each year. This debate spanned at least 18 months. Besides numerous governmental officials, scientists, and various tobacco industry representatives, the debate finally involved two external, independent reviewers from the U.S. and Germany in order to put an end to the debate.<sup>72-74</sup>

The reasons for why the tobacco industry feared the publication “Smoking and Mortality” is given in a letter entitled “Countering Swiss Federal Office of Public Health anti-tobacco brochure,” written by Jean Besques, PM’s chief strategist in its effort to minimize the “harm” done by the “Smoking and Mortality in Switzerland” brochure to the tobacco industry through further reduction of social acceptability of smoking and information of the public on the harmful effects of smoking and secondhand smoke:

...we should consider means of countering the brochure, in addition to the FTR/ASFC [Fabriques de Tabac Réunies, Philip Morris Switzerland/Association Suisse des Fabriquants de Tabac, the Swiss tobacco manufacturers association] initial effort to offset the press release [sent out by the publishers of the brochure “Smoking and Mortality in Switzerland”].

...It’s significant that this “public relations manifesto” was “signed” by (and in part targeted at) the Public Health Directors who have the authority, budget and responsibility for driving the anti-tobacco efforts in Switzerland.

...as this is an official Swiss government communication, we believe that the industry must do more than issue one public comment.

...Mr. Bardy as a Swiss citizen and as the head of the ASFC, should hand deliver a written demand [unclear what was demanded, most likely to stop further distribution of the brochure under debate until the issue was discussed with the tobacco industry] to the OFSP [Swiss Federal Office of Public

Health], and concurrently deliver copies of it to the Parliamentary Tobacco [see later] members. Mr. Bardy's ASFC letter should also be placed as an op-ed piece.

A member of Parliament should also be encouraged to direct a question to Mr. Coti [sic] [Federal Councilor Cotti, president of the Federal Council, the federal government]<sup>75</sup>.

The tobacco industry had been surprised by the publication of the brochure and had not been able to counter the statements of the brochure in time, before the brochure was made public through a press release by the Federal Office of Public Health and its distribution among interested individuals and organizations. In a follow-up letter to his first one suggesting the triggering of a parliamentary debate, Jean Besques, Manager, Industry Issues, Corporate Affairs, Philip Morris EEMA, justifies his favoring a letter from the ASFC to officials over a question in parliament (in which case the debate would have become open to discussion within the parliament, whereas with a letter to the officials, the debate stayed "private," i.e., between the tobacco industry and the involved officials (as opposed to politicians). It shows the common strategic thinking of the industry that was aimed at avoiding open public conflicts, which would have been to the disadvantage of the industry because of its low public credibility, and instead, lobbying discretely behind the scenes:

The initial plan to raise a question in parliament gave way to a new scheme which is more promising and quicker to implement. The alternative chosen is a letter from the ASFC to both the federal public health office and the conference of cantonal public health officials ...

The letter's purpose is twofold:

- to bring the authorities to review their position on the use of the brochure.
- to provide a document to which the tobacco industry and its allies can refer [because the letter would have included all the tobacco industry arguments used to create "controversy" around the issue of smoking and health].

...it avoids the adverse public reaction (e.g., bad press) a parliamentary question could trigger; it is more likely to dissuade public health officials from distributing the brochure or quoting from it than a parliamentary question, which would have forced the officials into a counter-attack;...<sup>76</sup>

In two additional follow-up letters, Besques lays out his ideas about creating a controversy about the brochure in order to discredit it with the general public by taking advantage of the public's general distrust of "experts:"

The more sophisticated we have to be in our defense, the less convincing we are with a public impatient of intellectual niceties and eager for stark statements that are easy to rephrase or just repeat. However, the public may be unquestioning but it is also proud and insists on being shown respect. And there lies our opportunity.

...we could tell it that it deserves more than oversimplifications and that our opponents, short of explanations, especially to the common man, display a low opinion of its intelligence. ...we could note that any discussion requires an understanding of a whole series of concepts and proceed to expose the main ones in a clear and simple, yet complete fashion. A scientific primer could be put together whether in the form of a video tape or as a book(let) or leaflets or a series of newspaper articles etc.<sup>76</sup>

Knowing their low credibility with the public, reference to the tobacco industry is to be avoided:

...We could educate the public and even do it without referring to tobacco.



...As a tobacco manufacturer, we are constrained in our addressing people under age or under the smoking age limit. However, can the law stop us from disseminating educational material which (1) our opponents don't bother to supply to explain their cases; (2) doesn't mention tobacco?<sup>77</sup>

Two days later, Besques presents a more detailed and specific plan to discredit the brochure which reflected standard tobacco industry tactics of nit picking at scientific studies while ignoring the overarching conclusions:

1<sup>st</sup> step: A list of flaws commonly found in epidemiological studies not dealing with tobacco could be drawn up on the basis of textbooks and well-known review articles. 2<sup>nd</sup> step: The Swiss brochure and its source material could be shown to illustrate each one of these flaws.

...This indirect criticism may be more convincing than a direct attack: 1) it would have the authority of the textbooks and review articles behind it; 2) the errors denounced in the brochure would no longer appear to be unique to a brochure dealing with tobacco; 3) it wouldn't look like an attack but like an invitation to use proper methods; 4) under this scheme there is no need to discuss the specific figures given by the brochure.<sup>78</sup>

The first step in implementing this plan was for the tobacco industry to solicit critiques of the work from "independent" experts that were carefully chosen because of their favorable, or at least non-hostile stance toward smoking or the tobacco industry, as well as their academic status in their respective fields, such as sociology, psychology, biostatistics, etc.. The tobacco industry solicited critiques of the brochure from two of their scientific consultants, B. Schneider, Professor at the Institute for Biometry of the Hannover School of Medicine, Germany,<sup>79</sup> and Peter Atteslander,<sup>80</sup> as well as from Bernie O'Neill from the US law firm Shook, Hardy & Bacon.<sup>81</sup> Again, in order not to expose themselves to the public, in which case the smoking and health issue, an unfavorable battleground for the tobacco industry, would have become the focus of the public, these critiques were only used in private meetings and discussions with the public health advocates and federal officials who were involved with the brochure.

Schneider's critique was focused on technical aspects of the brochure, such as calculations of risk, but was not critical of the brochure. This was probably the reason why his comments did not enter the debate.

In contrast to Schneider's report, the industry made heavy use of Peter Atteslander's work. Atteslander, scientific director of "AGEF - Arbeitsgruppe Gesundheitsforschung" (Health Research Working Group, based in Port, Switzerland) and Director of the "Institut für Sozialökonomie" (Institute for Socioeconomics) of University of Augsburg, Germany,<sup>82</sup> played an important role for the tobacco industry in this and later debates on the issue of smoking and health. Even though AGEF represents itself as a "group," no other names other than Atteslander were ever mentioned in any documents concerning AGEF.

This 30-page critique, much longer than the brochure it is criticising, touches not only methodological, but also philosophical aspects of health and public policy, and cannot be simply summarized. However, the argument of smoking as one of multiple causes of death and the difficulty of epidemiological studies in establishing cause and effect relationships is a standard tobacco industry argument in critiquing unfavorable studies.<sup>58</sup>

Atteslander's critique was used to influence politicians and officials, as well as the press. Atteslander's critique of the official brochure was widely distributed by the tobacco industry among Swiss MPs, those who received the official brochure, and the press, prior to a meeting with officials of the Federal Office of Public Health and academics working in the field of public health, which was requested by the tobacco industry in order to stop further damage to the industry by wider distribution of the brochure. The industry probably also sought to intimidate the public health advocates with the critiques of industry consultants, directly and indirectly by sending the critique to the highest level of the political system, namely to a Federal Councilor, one of the seven executive members of the federal government:

The critique written by Prof. Atteslander has been sent to the MPs, all those who have got the official brochure, and the press. The English translation was ready today. Plans are to ask for a date with Federal Counsellor [sic] F. Cotti, or the sanitary directors. Staff from our side BARDY, GAISCH, consultants (SCHNEIDER?).<sup>83</sup>

An analysis by three independent Swiss experts in public health, selected by the officials, could not end the debate around smoking and mortality in Switzerland. In their introduction, these independent experts did point out the well-known tobacco industry arguments against all quantitative data, which show the dangerous effects of tobacco. They also clearly state that there is no doubt about the fact that tobacco is the only legal substance the consumption (and not only its abuse) of which is harmful to health.<sup>84</sup>

The tobacco industry requested a meeting with the public health officials in order to make them back away from the statements made in "Smoking and Mortality in Switzerland." However, after an unproductive meeting between the representatives of the Swiss Federal Office of Public Health, independent public health scientists, and representatives of the tobacco industry with their consultants, including Atteslander and Schneider. On January 17, 1990, the controversy could only be ended through consultation of two foreign experts in the USA and Germany,<sup>74</sup> who had been suggested by the Federal Office of Public Health and agreed upon by the tobacco industry. One of the two consulted experts took a more mediating role, and the other basically agreed with the prior analysis done by the three Swiss experts.<sup>72, 73</sup> M. Ita, secretary to the director of the Federal Office of Public Health wrote a letter accompanying the two experts' letters, and basically ended the debate by saying: "With it [the position papers of the two experts], we regard the discussion around this issue [brochure on smoking and mortality in Switzerland] as ended."<sup>74</sup>

Even though there had been publications in Switzerland that dealt with the problem of smoking and health before this debate about the "Smoking and Mortality in Switzerland" brochure took place, the publication and distribution of this particular brochure seems to have taken the tobacco industry by surprise. Before this publication, the tobacco industry had been consulted prior to any official decisions, including revisions of laws concerning tobacco-related issues were taken. Also, this was the first time that official institutions, the Swiss Federal Office of Public Health and the Conference of Cantonal Directors of Health Affairs had taken such a clear position on the issue of smoking and health. This was the beginning of a more confrontational course taken by Swiss public health officials, who, until then, were used to the a consensus process with the tobacco industry, typical for the Swiss political scene.

## ***Atteslander as an Archetypal Tobacco Industry “Consultant”***

Although Atteslander repeatedly asserted his independence from the tobacco industry, he was clearly seen by the tobacco industry as sympathetic; a 1989 Philip Morris EEMA region annual report noted that he was on the list of a group of pro-tobacco consultants being invited to one of the industry’s “workshops” designed to discredit the evidence linking secondhand smoke and disease:

In November 3-4 in Montreal under the sponsorship of McGill University a conference is being organized entitled International Symposium on Environmental Tobacco Smoke. About 60 scientists are expected from around the world including 25 from Europe. Participants from EEMA include ... Baettig & Atteslander (Switzerland) ... <sup>85 bates 2500019965</sup>

This recruitment of scientific consultants is a well-known tobacco industry strategy to discredit or counteract scientific publications that are unfavorable to smoking.<sup>8, 58, 86</sup> The symposium’s proceedings were later published as the “McGill Symposium” and widely distributed by the tobacco industry.

Despite the fact that Atteslander wrote the critique of “Smoking and Mortality”<sup>80</sup> at the request of the Association of Swiss Cigarette Manufacturers,<sup>87</sup> he fervently asserts his independence in a protest letter to the president of the Swiss Conference of Cantonal Directors of Health Affairs, Burkhard Vetsch, after the secretary general of the organization had called him a representative of the tobacco industry.<sup>88</sup> Atteslander made these claims in spite of documents that show his activities as an observer and scientific informant of meetings for the tobacco industry, and his being paid by the tobacco industry for his activities:<sup>89-94</sup>

...Ferner müsste die Größenordnung von zur Verfügung stehenden resp. notwendigen Mitteln besprochen werden.<sup>89</sup>

...Ich rechne mit einem zusätzlichen Aufwand von ca. 8.000 bis 10.000 Sfr.<sup>93</sup>

...Über den bisherigen Aufwand (Zeit, diverse lange Telefongespräche Schweiz-Peking und Unkosten der Recherche in Peking) werde ich gesondert berichten.<sup>92</sup>

...Zu letzterem wäre ein Betrag zwischen US \$ 12.000 bis 20.000 zunächst ausreichend.<sup>94</sup>

[...In addition, the amount of available and necessary [financial] means, respectively, have to be discussed.

...I am anticipating an additional expense of ca. CHF 8,000 to 10,000.

...About past expenses (time, various long phone calls Switzerland-Beijing, and overheads for research in Beijing), I will report separately.

...For the latter, a sum between US \$ 12,000 and 20,000 would be sufficient for the moment being.]

The fees requested by Atteslander in these communications may give false impressions of the amount of money he received from the tobacco industry. Even when tobacco industry documents are available that explicitly state the exact amount of research grants or consultant fees, it is often difficult to figure out the exact amount that a consultant/researcher received in total from the tobacco industry. This is due to the fact that payments are classified according to research type (“primary” projects, i.e., not ETS-related, and ETS-related projects), and consultant fees.<sup>95 bates 2025602160\_2161</sup> Also, depending on the recruitment process, and also whether the payment is a research grant or a consultant fee, it is paid directly by a tobacco company, e.g.,

Philip Morris (USA or Switzerland-FTR),<sup>95-99</sup> indirectly by the national manufacturers association (with contributions of tobacco companies represented in that particular country),<sup>51</sup> or through a legal firm working for the tobacco industry, such as Shook, Hardy & Bacon or Covington & Burling.<sup>97</sup>

As an example, Atteslander received in 1992 CHF 30,274 (USD 20,736, until July 1992) directly from S&T (Science and Technology) FTR,<sup>100</sup> while he received CHF 50,000 (USD 34,247) through Shook, Hardy & Bacon.<sup>97</sup> Direct, budgeted payments Atteslander was to receive as a consultant from FTR/Philip Morris alone in other years are: 1991 USD 10,500<sup>96</sup>, 1993 USD 100,000,<sup>95</sup> 1994 USD 90,000,<sup>98</sup> 1998 USD 20,000.<sup>99</sup>

Atteslander also prepared a 50-page document for the tobacco industry (located among Philip Morris documents) entitled “The tobacco industry and the social policy environment. Concept for an offensive strategy.”<sup>101</sup> While the precise purpose and audience for the document is not known, the document lays out Atteslander’s “vision” of how to deal with the deteriorating environment for the tobacco industry. While nominally Atteslander’s independent advice, both the content and rhetoric closely mirror standard tobacco industry positions.

The reasons that the tobacco industry sought to use Atteslander is described clearly in Philip Morris’ Long Range Plan 1993-1995:

Continue well established collaboration with sociologist professor P. Atteslander (Switzerland/Germany) for giving scientific advice and consultancy on specific Swiss industry issues.<sup>65</sup>

One of the reasons for Atteslander being so useful to the tobacco industry was that he was a Swiss citizen, even though he was a professor at a German university. While he did not say anything any different from any of the industry’s “consultants” world-wide, his Swiss citizenship added to his credibility as a scientist in the Swiss political and scientific debate on smoking and health issues.

### ***U.S. EPA Report on Respiratory Effects of Secondhand Smoke***

In May 1992, the US Environmental Protection Agency released a draft report on the respiratory effects of secondhand smoke which identified secondhand smoke as a cause of lung cancer in nonsmokers, a Group A (proven human) carcinogen, and a cause of asthma and other respiratory problems in children.<sup>102</sup> While there was nothing ground breaking in this report – the US Surgeon General<sup>54</sup> and National Academy of Science[NRC, 1986 #207] had both issued scientific consensus documents reaching the same conclusions six years earlier in 1986 – the EPA report attracted world-wide attention and threatened to stimulate a further decline in social acceptability of smoking and a concomitant increase in regulation.

Reflecting worldwide tobacco industry concern about the impact of the EPA report, the Swiss Association of Cigarette Manufacturers (Association Suisse des Fabriquants de Cigarettes, ASFC) published an industry brochure entitled “La fumée de tabac ambiante. Un jugement hâtif” (Environmental Tobacco Smoke. A premature judgement) in an attempt to discredit the US EPA report. In line with standard industry practice, the brochure selectively cites “experts”

who have criticized the studies used in the EPA report (several of whom also happen to have served as tobacco industry consultants), as well as the meta-analytic methods employed by the EPA for the study, saying:

La méta-analyse est un modèle “pommes-et-oranges” qui est contesté par un grand nombre de scientifiques. [Meta-analysis is an “apples and oranges” model, which is questioned by a large number of scientists]<sup>103</sup>

Again following a standard tobacco industry tactic, the brochure ends by mentioning the sick building syndrome, thus reframing the issue of secondhand smoke into an issue of general indoor air quality,<sup>103</sup> and opening the door for consultants such as ACVA/HBI (see below).

On February 25, 1993, the Swiss Community of Cigarette Industry (Communauté de l'Industrie Suisse de la Cigarette, CISC) received the EPA Scientific Advisory Board review draft of the 1992 EPA for consultation.<sup>102, 104</sup> They swiftly responded by issuing a press release in which they take the standard industry position which dismisses the meta-analytic findings of the report as a statistical artifact.<sup>105, 106</sup>

We do not have enough information on what happened as a response to the press release by the tobacco industry criticizing the EPA report.

### **Social Acceptability of Smoking in Europe**

Philip Morris' growing concern over the secondhand smoke issue is documented in the following abstract from the Philip Morris Europe R&D confidential three-year plan 1993-1995:

*Europe is beginning to face many of the same political and social pressures that have been present in the US for quite some time. Although this is far more true in the EEC region than in the EEMA region, a number of EEMA countries are experiencing these pressures as well. The EEC is still contemplating an advertising ban; many countries in Western Europe now have active anti-smoking groups which are attempting to demonstrate the dangers of smoking to the populace; increasing cigarette taxes has been referred to above, and this trend is actually more of a problem for PM Europe than it is for PM USA. All of these issues, however, are minor annoyances compared to the potential damage to the industry posed by the environmental tobacco smoke (ETS) issue. It is through ETS that the anti-smoking forces in the US – as well as Canada, Australia, and other countries – have caused smoking to become a socially unacceptable form of enjoyment. Should this occur in Europe it would have serious economic consequences for PME for two reasons. The first is that opportunities for smoking, and therefore, consumption would decline. France has already passed legislation which virtually eliminates smoking in public places, and other countries are debating similar laws. Secondly, if smoking is socially unacceptable, product image ceases to be important, and the major reason for smoking premium products ceases to exist.<sup>1</sup>*

In addition to public relations action to discredit the scientific evidence linking secondhand smoke and disease and political action to fight any attempts to translate the growing scientific case that secondhand smoke endangers nonsmokers into restrictions on public smoking and smoking in the workplace, Philip Morris also recognized the need to develop new cigarettes that would be less objectionable to nonsmokers and, so, impose a lower social cost on smokers:

.... As a consequence, it is essential that PME R&D take whatever actions possible to ensure that smoking remains socially acceptable. There are two divergent strategies which must be pursued.

The first strategy involves the development of products which might be regarded by the consumer as being more “socially acceptable.” Such products include those with *reduced sidestream visibility, reduced sidestream odor, reduced sidestream irritation, and reduced exhaled smoke*. . . . It is essential that PME R&D collaborate with PM USA R&D to the greatest extent possible on these projects and, at the same time, determine if there are viable markets for such products.

...The second strategy requires that PME R&D supply any and all technical support which can be used by other areas of the company to combat the ETS issue. Such work includes but is not restricted to understanding the kinetics of the aging of certain components of ETS; ensuring that published literature in the ETS field is not irresponsible; carrying out research to determine if the composition of sidestream smoke can be controlled; and *monitoring ETS in public structures*. The importance of this strategy is underscored by the fact that there is a separate program to address it.<sup>1</sup> [emphasis added]

Given the fact that Philip Morris had identified secondhand smoke as its most vulnerable issue nearly a decade earlier, it is remarkable that tobacco control advocates in Europe have been so slow to embrace the issue. Philip Morris had considered the introduction of cigarettes with reduced sidestream smoke emission to improve social acceptability of smoking. However, the tobacco industry also feared the triggering of a discussion about the health consequences of secondhand smoke in countries where people were not yet aware of the adverse health effects of secondhand smoke, such as in Switzerland. A note to the file by Michael J. Reardon, Assistant Regional Counsel, Philip Morris EEMA in Lausanne shows that already as early as 1985 Philip Morris was proactively addressing this problem:

Project SIDESTREAM involves the *European introduction of a cigarette with reduced sidestream smoke emission*. Geoff Bible [Executive Vice President, Worldwide Tobacco, Philip Morris Companies Inc.] had requested Alcardo Buzzi [President, Philip Morris EEC region] and Walter Thoma [President, Philip Morris EEMA region] to give a very high priority to the introduction of this project. *Germany and Switzerland are felt to be the key markets for Project SIDESTREAM*.

Among the technical issues to be discussed are the following:

1. Will FTR and/or PM GmbH be in the position to manufacture cigarettes for Project SIDESTREAM in the near future?
2. Will the composition of the paper used for Project SIDESTREAM create any problems with national health boards? It should be noted that the paper in question contains magnesium.
3. Will the *issue of fire safety* be raised by the introduction of Project SIDESTREAM? Based on experiences with PASSPORT, a Canadian brand incorporating technology similar to that used for Project SIDESTREAM, *the cigarettes are often thought to be extinguished (and thrown away) when they are still lit*.

*On the marketing side, concern was expressed that by making sidestream smoke an issue in a country where it is not presently a concern (e.g., Switzerland), we may be damaging the social acceptability of smoking in general*. It was acknowledged that this risk would disappear if all of our existing brands incorporated the Project SIDESTREAM technology.<sup>107</sup> [emphasis added]

The prominent role of social acceptability of smoking in tobacco industry strategy can be understood as a threat to profit and image. Decreasing social acceptability not only directly influences cigarette consumption, but also indirectly cigarette sales through diminished power of image advertising and impression of norm. The importance of image advertising, particularly for youth, Philip Morris' target group, is expressed in a presentation made in New York by an anonymous FTR representative on May 23, 1988. It discredits the tobacco industry's claims that they do not target youth, Switzerland not being an exception:

I am delighted to be here today to show you why Philip Morris is the No 1 cigarette company in Switzerland and why we will keep this position in the future.

Over the next 30 minutes, you will see how *a carefully balanced mix of image-strong advertising campaigns and dynamic, youth-oriented promotions continue to improve both the volume and market share of our company.*

...  
The food trade accounts for nearly 40% of total industry sales. However, *the preferred outlets of young pack purchasers, our target group, are still kiosks, tobacconists or cafes and bars. Vending machines, included under cafes and bars, account for nearly 10% of total industry volume.*

...  
*Switzerland is relatively free of cigarette advertising restrictions.* Only Radio and Television are banned by law. An industry code restricts the use of magazines to 1 full page and newspapers to 3/4 page.

...  
...over half of all cinema-goers are under 25.

...  
...Marlboro is no exception. With *our target being the young consumer*, we concentrate on two main themes...

...  
In summer we concentrate our sampling and promotional efforts on open-air concerts and music festivals.

...  
On the promotional front we have also refreshed our approach. Last winter strange things were happening in the Swiss mountains. Young people were putting away their traditional skis and taking to the slopes on mono-skis, snow-boards and parachutes. But what did this have to do with Muratti? Look at the colours. Its [sic] fun, there's sun and is there really no sea?... Muratti Snowtime was advertised in print, outdoor and in the cinema.

...  
To conclude, in Switzerland today, Philip Morris' position is very healthy. *We are the clear market leader.* We have four solid legs to stand on, each *supported by a strong brand image.*

...  
With what you have seen today and our plans for the future, you can be confident that *Philip Morris will continue to strengthen its position as the No 1 cigarette company in Switzerland.*<sup>108</sup>

Philip Morris EEMA did not disappoint its audience. It continues to be the leader today, albeit with much smaller margins to its major competitor, due to the recent merger between Burrus-Rothmans and British American Tobacco (BAT).

The following chapters illustrate the efforts and methods the tobacco industry utilized in order to maintain social acceptability of smoking, be it through denial of the health damaging effects or through high visibility of smoking in public places and on advertising and promotional material that would transmit the impression that smoking is the social norm.

## **SAPALDIA Study**

The "Swiss Study on Air Pollution and Lung Diseases in Adults" (SAPALDIA) was a large, multicenter study of the relationship between environment and respiratory symptoms and diseases. It is part of a large research program sponsored by the Swiss National Science Foundation, called "Mensch, Gesundheit, Umwelt" (Man, Health, Environment). It is a still ongoing, large multicenter study, and was initiated in order to study a wide range of environmental factors that impact respiratory health. It includes epidemiologists and clinicians from various regions of Switzerland. Because indoor air pollution was part of the study,

secondhand smoke was included in the study. The study included the relationship between secondhand smoke exposure in a large, randomly selected sample of nearly 10,000 adults in 8 different locations in Switzerland and chronic respiratory symptoms.

The SAPALDIA results were published in 1994 in the *American Journal of Respiratory and Critical Care Medicine*.<sup>109</sup> The authors found a statistically significant association between passive smoking exposure and respiratory symptoms, with odds ratios (OR) that ranged from 1.39 to 1.94. (The odds ratio is the ratio of the probability that someone exposed to secondhand smoke will get the disease under study compared to the probability than an exposed person will get the disease.) The 95% confidence intervals for all the odds ratios excluded 1.0, indicating that these elevations in risk were “statistically significant.” The associations were dose-dependent for episodic symptoms, such as wheezing and dyspnea, whereas the association with symptoms of chronic bronchitis was related to years of exposure. These findings were robust, with little changes when additional control variables were added.<sup>109</sup> In other words, secondhand smoke caused serious pulmonary problems in people exposed in Switzerland at home and at work.

Despite the fact that the results were not published until 1994, part of the results were made public in May 1993 through a press release by the Swiss National Science Foundation, which was reported in a well-regarded, internationally distributed Swiss newspaper, *Neue Zürcher Zeitung* (NZZ), known for its authority and quality of reports, on May 13, 1993. This newspaper, read widely by the Swiss economic establishment, stated among other things:

...Damit wurde *in der Schweiz* erstmals die erhöhte Anfälligkeit von Passivrauchern in Zahlen belegt. .... Ferner fällt gemäss der Studie die Rauchbelastung am Arbeitsplatz deutlich stärker ins Gewicht als jene zu Hause. [Thus, for the first time *in Switzerland*, the increased vulnerability [to respiratory diseases] was documented in numbers. ...In addition, according to the study, the burden of smoke is heavier at the workplace than at home].<sup>110</sup> [emphasis added]

These are important scientific findings, especially those related to workplaces.

A few months before the study results were published in the *American Journal of Respiratory and Critical Care Medicine*, another press release was communicated to the media. This time, the problem with secondhand smoke was part of a larger press release dealing with air pollution and respiratory diseases, but the secondhand smoke – respiratory disease relationship took a prominent position in the newspaper article of the *Tages-Anzeiger*, another major Swiss newspaper, published in the largest city of Switzerland, Zurich, and also read by people outside of the region.<sup>111</sup> This time the press release dealt with air pollution in general and respiratory health with secondhand smoke being mentioned as one of the air pollution components.

As soon as the first results were made public in May 1993,<sup>110</sup> the tobacco industry started its efforts to discredit the study. In a letter dated May 18, 1993, Jean-Claude Bardy, the director of CISC (Swiss Association of Cigarette Manufacturers), wrote to the general secretary of the Swiss National Science Foundation, funder of the SAPALDIA study, inquiring about the document from which the data for the press release was taken, in particular with regard to passive smoking.<sup>112</sup>



A month later, Bardy wrote Atteslander, asking for an expert opinion regarding the press release itself and its conclusions:

Die Herren R. Pantet und U. Crettaz, Philip Morris SA, haben Unterzeichneten über das am 9. d.M. mit Ihnen geführte Gespräch in der Sache Sapaldia-Studie“ Mensch, Gesundheit, Umwelt” und die am 12. Mai 1993 erfolgte Pressemitteilung des Schweizerischen Nationalfonds zur Förderung der wissenschaftlichen Forschung orientiert.

Grobanalyse des Inhaltes der Pressemitteilung sowie des Vorgehens zur Bekanntgabe “erster definitiver Teilergebnisse” der Studie via diese Pressemitteilung legte einige offenbar gravierende Ungereimtheiten und Unzulässigkeiten an den Tag. Diese lassen die starke Vermutung aufkommen, dass die vorzeitige und aus dem Zusammenhang der Studie herausgerissene Bekanntgabe von Teilergebnissen betreffend das “Passivrauchen” eher das Produkt vorgefasster Schlussfolgerungen und Absichten ist und weniger das Bemühen um objektive Information der Oeffentlichkeit.

Wir möchten Sie hiermit anfragen, ob Sie bereit wären, eine Sachverständigen-Prüfung vorzunehmen, inwieweit

- a) die Pressemitteilung als solche
- b) in der Pressemitteilung enthaltene Aussagen

nach dem Stand der Dinge zum Zeitpunkt der Veröffentlichung sowie ggf. aufgrund weiterer, nachträglich eingeholter Zusatzinformationen wissenschaftlichen Kriterien und Usancen standhalten oder diese zumindest nicht gravierend verletzen.

Eine in einer zweiten Phase ggf. vorzunehmende eingehende Ueberprüfung der methodisch korrekten Anlage und Schlussfolgerung der Studie bleibt vorbehalten.<sup>112</sup>

[R. Pantet and U Crettaz, Philip Morris SA have informed the undersigned of the discussion with you that took place on the 9<sup>th</sup> of this month concerning the SAPALDIA study “Man, Health, Environment,” as well as the press release of the Swiss National Science Foundation of May 12, 1993.

A provisional analysis of the content of the press release, and the process involving the announcement of the “first definite partial results” of the study through this press release, presumably uncovered some badly flawed and inadmissible data. This makes us believe that the premature announcement of partial results concerning “secondhand smoke,” devoid of context, is the result of preconceived conclusions and intentions, rather than an attempt for objective information of the public.

We would like to ask you whether you would be willing to serve as an expert to examine whether

- the press release itself
- the contents of the press release

fulfill, if necessary, based upon additional information that are later retrieved, current scientific criteria and customs, or, at least, do not violate them in a critical way.

A more detailed analysis of a correct design and conclusion of the study in a second phase is contingent upon the results of the above.]

Atteslander responded favorably to this tobacco industry request. In the first issue of volume 153 of the *American Journal of Respiratory and Critical Care Medicine*, 1996, he and Schneider published a letter to the editor applying the standard tobacco industry arguments against any scientific study linking smoking or secondhand smoke with disease to the SPALDIA study:

Our first question concerns study design. Cross-sectional surveys are unable to resolve the antecedent-consequence uncertainty. If a study cannot show that the exposure to a suspected risk factor occurred before the symptoms arose, then how can a statistical association be meaningful?

...Does not a nonresponse rate of 44% suggest a self-selection bias, which must be fully understood before the study could be applied at large?

...How was the questionnaire validated?

...A fifth question concerns statistical methods. Linear logistic [sic] regression depends on assumptions of the specific model. How good was the fit between the model and the data?(emphasis added)

The SAPALDIA study was intended to be a “Swiss study on Air Pollution and Respiratory Diseases in Adults.” How has it become an indoor air study on passive smoking?

Any epidemiologically unbiased risk estimate is one that seeks to represent as perfectly as possible (besides chance) the true value of the risk in the base population. The above questions suggest that this is not the case for the SAPALDIA study.<sup>113</sup>

The authors did not disclose their financial ties to the tobacco industry.

Even though the lead authors of the SAPALDIA study, Leuenberger, Schwartz, and Ackermann-Liebrich, were given the opportunity to respond to Atteslander and Schneider’s critiques,<sup>114</sup> this kind of letter-writing is used extensively by the tobacco industry in order to make it appear that scientific findings linking smoking and secondhand smoke to disease are controversial.<sup>47, 115</sup>

This approach is similar to industry attacks on earlier studies on passive smoking and disease, as illustrated by a major international advertising campaign the industry ran in 1981 against the first study linking passive smoking and lung cancer<sup>8 p.414</sup> (Fig. 15).

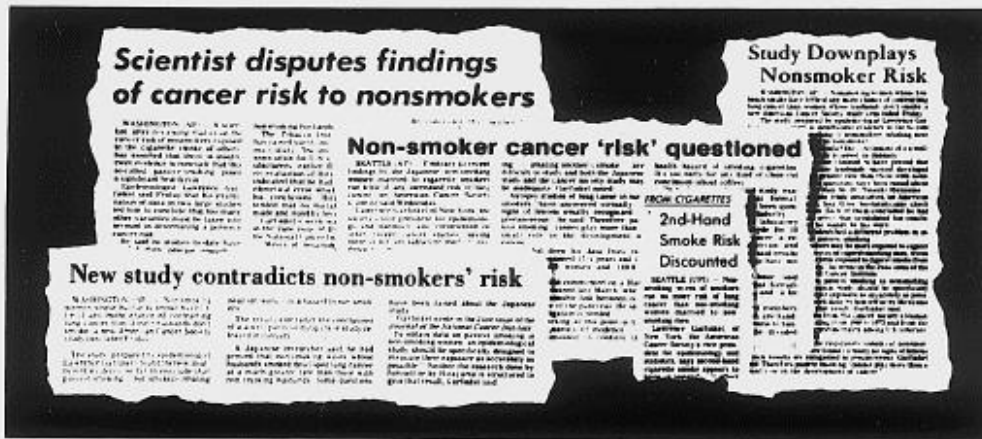
The tobacco industry’s public campaign against the SAPALDIA study continued well after it was published. In September, 1994, Edgar Oehler, a former Swiss national councilor (Member of parliament, national council, which has 200 members and represents the electorate in proportion to the population size of a canton) and president of the Swiss cigarette manufacturers association, appeared on the popular Swiss political TV program “Kassensturz” and criticized the SAPALDIA study on methodological grounds.

Rather than publicly defending the study, the principal investigator, Ursula Ackermann-Liebrich, replied to these accusations via a personal letter to Edgar Oehler. It is unclear why Ursula Ackermann-Liebrich, Director of the Institute of Social and Preventive Medicine in Basle, who should have been aware of Oehler’s strong ties to the tobacco industry, as he was representing the tobacco industry as the president of the Swiss Association of Cigarette Manufacturers, she thought that a personal letter was the right channel to resolve the “misunderstanding” that was created during the popular broadcast.<sup>116</sup> Likewise, the representative of the public health institutions during the broadcast, Felix Gutzwiller, professor of Social and Preventive Medicine, and director of the Institute of Social and Preventive Medicine in Zurich, also wrote a personal letter to Oehler, stating:

...Ich hoffe natürlich auch, dass damit verhindert werden kann, dass weiterhin ähnliche Fehlaussagen über die SAPALDIA-Studie öffentlich gemacht werden. [I hope also, that this information (from the principal investigator of the study) will prevent further public misstatements about the SAPALDIA study].<sup>117</sup>

Fig. 15

# HERE'S WHAT'S NOW BEING SAID ABOUT TOBACCO SMOKE IN THE AIR.



Several months ago, headlines around the world trumpeted alarming news. A Japanese study was claiming that non-smoking wives of smokers had a higher risk of lung cancer because of their husbands' tobacco smoke. That scared a lot of people and understandably so, if this claim was the last word.

But now new headlines have appeared. First, because several eminent biostatisticians found an apparent statistical error in the Japanese calcula-

tions—raising serious questions about the study. Second, because Lawrence Garfinkel, the statistical director of the American Cancer Society who is opposed to smoking, published a report covering 17 years and nearly 200,000 people in which he indicated that "second-hand" smoke has insignificant effect on lung cancer rates in nonsmokers.

If you'd like to know more about these developments, write Scientific Division, The Tobacco Institute, 1875 I St. N.W., Washington, D.C. 20006.

**BEFORE YOU BELIEVE HALF THE STORY, GET THE WHOLE STORY.**

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.

Both scientists may have thought that Oehler's critique of the study was based on a misunderstanding of the scientific content of the study rather than part of a long-standing tobacco industry strategy to "create controversy" about scientific work that does not meet its political needs. More importantly, the fact that they decided to respond privately rather than

publicly meant that the public was left with the misimpression that there were serious methodological questions about the methods in the study.

In contrast to the public, which did not see the responses from Ackermann-Liebrich and Gutzwiller, both of these letters were passed on to Philip Morris, where we found them.

There was another very typical aspect of this tobacco industry story which never received the public's attention, and which clearly demonstrates how the tobacco industry misled people into believing that tobacco industry consultants were independent scientists who acted purely in pursuit of scientific truth. As we already saw above, Jean-Claude Bardy, director of the Swiss Association of the Cigarette Industry himself had written Peter Atteslander in May 1993 asking for a critical appraisal of the SAPALDIA press release. Over the following three years, many letters had been exchanged between the tobacco industry (mainly through Jean-Claude Bardy, sometimes together with Edgar Oehler, and often with copies to the Federal Counselor Ruth Dreifuss and André Aeschlimann, president of the Swiss National Research Council) and the principal investigators of the study, Philippe Leuenberger and Ursula Ackermann-Liebrich, two successive presidents of the Swiss National Science Foundation's council, Jean Cavadini (1994) and Ralf Hütter (1996), as well as two successive secretaries general of the Foundation, Peter Fricker (1993) and Hans-Peter Hertig (1995).<sup>118, personal communication</sup> In these letters, the tobacco industry repeatedly criticized the timing of the press release that reported the findings of the SAPALDIA study, showing the adverse effects of secondhand smoke on airways. More specifically, the tobacco industry criticized the fact that the press release had been cleared before the publication of the findings in a scientific journal.

When the tobacco industry finally reached their goal of arranging a meeting between their representatives and representatives of the Swiss National Science Foundation on January 29, 1996,<sup>119</sup> Ralf Hütter asked the critical question about the similarities between the tobacco industry's questions to the authors of the SAPALDIA study and the questions that Peter Atteslander had asked in the letter to the editor of the American Journal of Respiratory and Critical Care Medicine.<sup>113, 119</sup> Even though we know from the tobacco industry's internal documents that Atteslander had clearly been involved in this long-lasting dispute on request of the tobacco industry from the very beginning of the debate, and that he had been a paid consultant of the tobacco industry long before the SAPALDIA episode,<sup>57, 95-100</sup> Atteslander reconstructed a distorted version of his involvement in the SAPALDIA dispute in a letter sent to Jean-Claude Bardy in order to hide his true identity as an industry consultant.<sup>120</sup>

The public health advocates and scientists failed to respond effectively in public to the fallacious statements that the tobacco industry publicly made. Therefore, not only did they miss another opportunity to educate the public about the true state of the scientific evidence that secondhand smoke is dangerous, but left it to the tobacco industry to mislead the public with widely-used industry claims to the contrary.

## Chapter 6. The Tobacco Industry and the Hospitality Industry: HoReCa

The tobacco industry has low public credibility, so it often seeks to operate through intermediaries.<sup>4, 121, 122</sup> With regard to issues of smokefree workplaces and public places, the tobacco industry has devoted considerable effort to developing alliances with the hospitality industry.<sup>123 pp. 135-144, 124</sup> In Switzerland, the tobacco industry developed a strong working relationship with the International Organization of Hotel and Restaurant Associations (HoReCa), which had its headquarters in Zurich, Switzerland, and the Swiss Café/Restaurant Association.<sup>67, 125</sup>

The importance of a collaboration between the tobacco industry and other organizations is outlined in a market research report for the three years 1994-1996 for the Philip Morris EEMA (EFTA, Eastern Europe, Middle East, Africa) region under the heading of regional corporate affairs:

Continue to build and support industry working groups, consumers' rights and tax-payers movements groups; ...<sup>125 p.2</sup>

Even though the Swiss hospitality industry associations were not set up by the tobacco industry (as they have been in some other instances),<sup>121, 123 pp. 135-144</sup> the tobacco industry was able to influence the hospitality industry to serve its own needs. One such industry working group was the ASFC/SCRA working group:

Develop collaboration with cafés-restaurants associations.

-Promote a voluntary smokers/non-smokers accommodation programme for cafés and restaurants through the ASFC/SCRA working group and by lobbying Swiss tourism industry.<sup>125 p.16</sup>

This working group was likely the result of a “cooperative, four year program with the Swiss Café/Restaurant Association which permits the industry to educate and activate their members and customers in opposition to government mandated smoking restrictions.”<sup>67 bates 2501254720</sup>

The success of this effort (from the tobacco industry's perspective) is documented in Philip Morris's 1987 internal report, “Switzerland – 1987 Objectives. Corporate Affairs” illustrates the point:

Smoking in restaurants : the ASFC organized a meeting with the heads of the hotel/restaurant association and the head of the association of the manufacturers of air quality installation. *Regular articles are published in newspapers* by the hotel/restaurant association on the ETS issues *without mentioning the tobacco industry*. An agreement of four years has been signed between the ASFC and the hotel/restaurant association which will *allow the [tobacco] industry to undertake PR campaigns in 1,800 restaurants each year*.<sup>126 p. 10-11</sup> [emphasis added]

Rather than defending the interests of its members (hotels and restaurants), HoReCa and SCRA were willing to serve as a conduit for the tobacco industry. From the documents we have, it seems that the members of the hospitality association were not aware of the close liaison between their association and the tobacco industry.

This collaboration with the hospitality industry, and collaborations with other associations, was successful from the tobacco industry's perspective. One example of such a success is the defeat of a proposed amendment to a cantonal law in the Canton of Lucerne in 1990, which would have required all restaurants to offer non-smoking tables. It was rejected by a majority of the cantonal parliament of Lucerne. Raymond Pantet, Director Public Affairs & Relations FTR, Phillip Morris EEMA, reported in a memo for distribution within Philip Morris (copies to Ulich Crettaz, Manager, industry and economics affairs, FTR, Stig Carlson, Manager Corporate Affairs, Philip Morris EEMA, Steve Parrish, Head of Worldwide Regulatory Affairs, and others) that the involvement of tobacco industry allies in the hospitality industry was a key element in the industry's victory:

This positive result has been achieved thanks to strong involvement of the director of the association of café-restaurants owners and of the head of the cantonal section of a national economical organisation (USAM) [Union Suisse des Arts et des Métiers]. *Both allies who are members of the cantonal parliament had been briefed in detail on our arguments (tolerance, courtesy; IAQ).*<sup>127</sup> [emphasis added]

The same memo continues to explain that this tobacco industry victory was reported in a major Swiss newspaper, *Neue Zürcher Zeitung (NZZ)*, and the article was offered to other countries to be used to oppose restaurant smoking restrictions:

The Swiss news agency (SDA/ATS) issued an information on the decision and we are going to fax tomorrow the original text in German with an English translation. This information has been printed by the famous "Neue Zürcher Zeitung" (NZZ) which is internationally well known. You will receive a copy of the article as well.

If our colleagues in foreign countries want to exploit the news, I suggest they refer to the NZZ article.<sup>127</sup>

NZZ summed up the industry victory:

#### No obligatory non-smoking tables in the Canton of Lucerne

Lucerne, the 2<sup>nd</sup> July (1990). The Lucerne Greater Council made a U-turn on Monday. It did not pass an amendment to the law whereby non-smoking tables were to be prescribed for restaurants. In 1988, it had even approved an SP (Swiss socialist party) motion on the subject, although with the addendum "provided that the conditions in the establishment allow this." ...

The non-socialist majority in the Council were of the opinion that non-smoking tables should be provided voluntarily and not as a mandatory obligation under law. In any case, such a prescription would not be able to be enforced in practice. Non-smokers would be better protected from passive smoking by good ventilation of the establishment. In the final analysis, it was a matter of showing consideration.

Non-smokers now form a majority. Experience shows, however, that voluntary provision of non-smoking tables does not work, argued the supporters of the bill in vain. Even the piece of information that a quarter of all lung cancer cases can be traced to passive smoking did not shift the opponents of the bill from their position.<sup>128</sup>

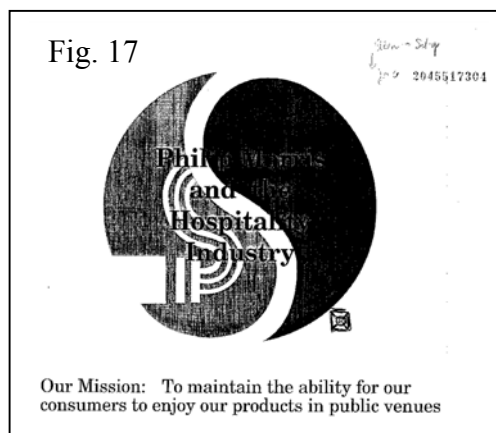
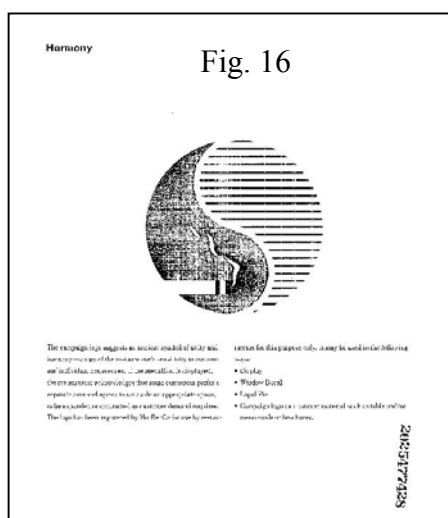
Another example of how the tobacco industry manipulated policy making through influence of allied organizations is shown by the thematic similarity of arguments against smoking restrictions which are voiced in tobacco industry documents and publications by International HoReCa, the International Organisation of Hotel and Restaurant Associations. HoReCa issued a brochure for its members in April 1991 with the title "Hospitality, Courtesy, Conviviality." The objectives of this "initiative" are stated as follows:

...This initiative rests on the conviction that creating a comfortable, congenial dining experience is a valued tradition and an individual art of the restaurateur.

...To preserve that tradition, this program takes the initiative *in welcoming smokers and non-smokers and accommodating their preferences with equal regard*. The theme is harmony, which is symbolized by the logo shown on the inserts in the right pocket.

...This is an effort not only to preserve our traditions and our rights, but also to avoid risks of unworkable regulations imposed from outside...To protect the art of hospitality we have created in our establishments so that they will continue to be congenial meeting places where our guests can enjoy maximum conviviality.<sup>129</sup> [emphasis added]

The logo used in this campaign, consisting of a smoking cigarette within a Yin and Yang harmony symbol, was almost identical to the one used for the accommodation program elsewhere to fight smoking restrictions in restaurants, such as in New York<sup>123 pp. 135-136</sup> (Fig. 16 and 17).



From a tobacco industry campaign in Philadelphia, USA, aiming at increasing social acceptability of smoking. (Accommodation program)

The accommodation program was seen by Philip Morris as the key element in the fight against smoking regulations in restaurants and other indoor places. An undated presentation document explains the importance of the accommodation program and its role in the relationship with the hospitality industry in Philip Morris' efforts in the US:

#### Philip Morris and the Hospitality Industry

The Accommodation Program serves as a link between PM and the hospitality industry. Our ability to interact effectively with the hospitality industry is critical to our ultimate objective, which is to maintain the ability for our consumers to enjoy our products in public venues such as restaurants, hotels, bowling centers, and shopping malls. This relationship becomes even more important as legislative threats continue to mount at local, state, and federal levels.<sup>130 bates 2045517337</sup>

The same document goes on explaining why the tobacco industry needs “to build a strong and relevant partnership with the hospitality industry”:

Since *we are reliant on the industry to be out in front fighting on this issue*, it is important that we are able to forge a strong and relevant relationship with members of the industry. We must be a player if we expect to carry any weight. This requires that we are able to pursue every opportunity to promote common ground (shared customer base) and vested interest. And that we are able to *invest in supporting the industry*. *Sponsorship opportunities allow us to get on the agenda, build critical relationships and make our issue a priority where it otherwise might not be one*. In order to do this, we need to be visible, credible, and carry a strong reputation in support of the industry. The alcoholic beverage and credit card companies have done so, and done so well.<sup>130 bates 2045517339</sup> [emphasis added]

It also tells us what role the accommodation program can play:

The accommodation program *provides us with the tool in order to develop and foster key relationships within the [hospitality] industry*. It is a resource that we provide to the industry in order to assist them in properly accommodating their smoking and nonsmoking customers and guests, but also a platform from which we can address the industry and bring some attention to our issue. It allows us to build relationships with individual business owners, and with local, state, and national trade associations. *It give[s] us the voice to educate the industry on our issue*, and bring to the forefront some of the economic impact data that paints a clear picture of the potential effects of government mandated smoking bans. It also *allows us to build and ultimately mobilize an ally base*, at both the grassroots level, and more importantly, at the grasstops level, among industry leaders and trade associations. It also provides PM, as well as the hospitality industry, with a *platform to communicate that government mandated restrictions on smoking are unnecessary – the industry is proactively dealing with the issue on their own*.

The resources and relationships developed through The Accommodation Program can be *utilized to help support our social and legislative objectives*. However, the program *must adapt its tactical execution in varying markets, based on legislative environment* in order to help us most effectively support these objectives.<sup>130 bates 2045517341</sup> [emphasis added]

A confidential document prepared by Burson-Marsteller in May 1990, entitled “An accommodation strategy in EEMA. A strategic brief,” emphasizes the importance of the accommodation program in Switzerland:

...in Switzerland, where 9 out of 10 people believe ETS is a health hazard, and 73% of non-smokers feel annoyed by smoking (of whom 59% say they feel annoyed in restaurants), and where only 19% of non-smokers feel smokers are courteous (one of the lowest scores measured), it is not surprising that 51% of Swiss smokers say that they hear complaints often (one of the highest scores in Europe) and that 64% say that they support separate sections in restaurants. *A kind of social war -- albeit hidden -- seems to be raging in Switzerland, war that smokers are in danger of losing unless the industry comes forward with ammunitions which allows social harmony to be recreated.*<sup>2 p. 12</sup> [emphasis added]

The arguments were provided by Philip Morris to the International HoReCa, and the special report dated October 1989 were signed by Healthy Buildings International in Fairfax, VA, and Healthy Buildings International Iberica, Madrid, Spain, an organization with strong ties to the tobacco industry. We were not able to find documents that show the financing of the program in Switzerland by Philip Morris or the Swiss tobacco manufacturers association.

The main tobacco industry strategies grew out of the industry’s concern over the increasing public awareness of the dangers of secondhand smoke and its expectations that more regulations and restrictions on smoking will follow. This concern is expressed in a confidential draft of the Worldwide Strategy and Plan, coordinated with PM USA, PMI, Worldwide



Regulatory Affairs, Corporate Affairs, Worldwide Operations and Technology, dated October 14, 1996:

Situation Overview (con't)

In this environment smoking bans and unreasonable restrictions have continued to proliferate and have become increasingly restrictive for smokers and burdensome for the owners and operators of facilities.

...

Forecast

An increased number of proposed bans and restrictions can be expected in view of a number of pending reports and the likelihood of additional scientific publications.[Philip Morris, 1996 #70 p. 4, 10]

Therefore, some of the tobacco industry's prime objectives were:

1. Ensure the reasonable and rational outcome of regulatory and quasi-regulatory initiatives.
2. Accommodate the preferences of smokers and nonsmokers:
  - Encourage self-regulation by the affected parties and/or reasonable government initiatives.
  - Identify and support IAQ technologies.[Philip Morris, 1996 #70 p.11]

For the hospitality sector, the tobacco industry's keyword was "accommodation," which was used also in the brochure by International HoReCa, illustrating once more how the tobacco industry "trained" the key personnel of allied organizations.

Worldwide

Hospitality

- Support the continued expansion of The International Hotel Association's (IHA) *Courtesy of Choice* program which provides tools to support accommodation for the association's 330,000 member hotels and restaurants in 145 countries.
- Broaden adoption of the *Courtesy of Choice* program by IHA members in the 24 countries where it is underway and implement the program in an additional 6 countries in 1996.
- Develop a CD-ROM version of the *Courtesy of Choice* ventilation training materials for use by facility engineers and for inclusion in professional training curricula.
- Develop accommodation programs for smaller establishments.
- Support HoReCa International initiatives.
- Identify multinational pubs and tavern associations and technical organizations to develop solutions for the sector.
- Provide markets with support to develop local accommodation programs as needed with various hospitality sector organizations.[Philip Morris, 1996 #70 p. 38]

In several EEMA countries, these supportive activities having been well in place for several years (at least 5 years),<sup>129</sup> including Switzerland; Philip Morris' objectives were simply:

Introduce locally sponsored programs in the sector in Denmark and Czech Republic and *sustain activities* in Sweden, *Switzerland* and Hungary.[Philip Morris, 1996 #70 p. 44] [emphasis added]

The cooperation between the tobacco industry and the hospitality industry was not unique to Switzerland. The tobacco industry routinely seeks support from the hospitality industry to resist smoking restrictions in restaurants, cafes, and hotels. For example, the Massachusetts Restaurant Association (MRA), a nonprofit trade association for the food and beverage industry, had collaborated with the tobacco industry since the late 1970's in order to defeat state and local laws in Massachusetts that would restrict smoking in beverage and food service establishments and other public places.<sup>124</sup> In California, in late 1980's and early 1990's,

the tobacco industry created several front organizations, such as Beverly Hills Restaurant Association in Beverly Hills, Restaurants for a Sensible Voluntary Policy in Los Angeles,<sup>121</sup> Sacramento Restaurant and Merchant Association in Sacramento, and California Business and Restaurant Alliance in Long Beach, that nominally represented the hospitality industry.<sup>122</sup> In New York, in the mid-1990's, Philip Morris used a small restaurant organization, which it funded and renamed to the New York State Tavern and Restaurant Association (NYSTRA or NYTRA – it used three other names subsequent to a threat by the non-tobacco affiliated New York State Restaurant Association (NYSRA) to sue NYTRA because it could be confused with NYSRA.<sup>123 pp. 135-136</sup>

The cooperation between the tobacco industry and the hospitality industry was very successful in Switzerland in preventing meaningful smoking regulations in restaurants, cafes, and hotels to be introduced. Unlike in California and New York, the Swiss public health advocates were not monitoring tobacco industry's cooperation with other associations, thereby failing once again to uncover tobacco industry's manipulations in the background. If customers of restaurants, cafes, and hotels are to be protected from the harmful effects of secondhand smoke, these tobacco industry manipulations will have to be uncovered and publicly presented in order to obtain a broad public support for indoor smoking regulations, including restaurants, cafes, and hotels.

## Chapter 7. ACVA, HBI, and the Tobacco Industry

Indoor Air Quality (IAQ) has been the focus of tobacco industry's attention for obvious reasons. Once secondhand smoke had become the topic of discussion, "diluting" the problem of secondhand smoke with other indoor air pollutants and diverting people's attention from secondhand smoke to a matter of ventilation has been a standard tobacco industry strategy for preventing regulatory measures that would require smoke free areas. This strategy compliments tobacco industry efforts designed to use the hospitality industry to advance the tobacco industry's interests, particularly regarding workplace smoking regulations.

The tobacco industry's general strategy is to provide studies of indoor air quality that implicate anything but secondhand smoke as a major source of indoor air pollution. To achieve this end, the tobacco industry has created or promoted several companies who specialize in providing such studies. As with its scientific "consultants," the financial relationship between the tobacco industry and these indoor air consultants was not disclosed. Establishing "third parties" is one of the main industry strategies for dealing with secondhand smoke. As the minutes of EEMA/EEC ETS strategy meeting held on May 11, 1987 states:

### 2. Components of the ETS strategy

Establish Third Parties:

- Scientific experts (identification, organization)
- *ACVA-type*<sup>59</sup> [emphasis added]

ACVA refers to ACVA Atlantic, Inc., USA, a company that specializes in indoor air quality. In 1989 ACVA completed a survey of indoor air quality of Swiss office buildings.

ACVA, later renamed Healthy Buildings International (HBI) has come under severe criticism in the United States. A US congressional inquiry in 1994 held by Congressman Henry Waxman found that HBI falsified more than 25% of data from an HBI study in the US.<sup>8 p.412, 131, 132</sup> According to a *Washington Post* article from March 24, 1996, "the tobacco industry subsidized and widely publicized HBI's scientific findings, helping to shape the public's understanding about the potential danger of secondhand smoke -- or, as the industry would have it, the lack of danger. HBI accepted just over \$200,000 from the tobacco industry's Center for Indoor Air Research to produce what HBI called "the single largest and most representative estimate" of workplace exposure to secondhand smoke ever made in the United States. The 1989 project involved 36,000 measurements in 585 different buildings. Its findings, which held that secondhand smoke typically occurred in such low concentrations in offices as to be of little concern, were cited over and over in public forums by HBI and tobacco industry representatives. Four years later, Waxman's congressional investigators retained Alfred Lowery, a scientist at the Naval Research Laboratory, to review the project's measurements. Lowery said in a report that HBI's conclusions were "marred by unsubstantiated data, discrepancies, and miscalculations." Lowery said his review raises "serious questions of scientific fraud." The congressional investigators concluded that there was "a widespread pattern of significant data alterations" in the study. Gray Robertson, president of HBI, says Lowery's analysis was wrong, and he defends the HBI study's findings and integrity."<sup>133</sup>

Robertson was initially asked by the Business Council on Indoor Air (BCIA), a “lobbying group composed of such Fortune 500 companies as Owens-Corning Inc. and Dow Chemical Corp.—it has no tobacco company members,”<sup>133</sup> to make one of his “standard presentations on what causes indoor air quality.”<sup>133</sup> “Companies like Owens-Corning were worried about government “witch hunts” into the contributions of products like fiberglass to indoor air pollution.”<sup>133</sup> After that, he sent Jeffrey Seckler, one of his employees, to a meeting of the council. Seckler, who had only a BA in psychology, was named chairman of the technical committee of the Business Council on Indoor Air over PhD’s and engineers. BCIA’s technical committee lobbied the US Environmental Protection Agency on indoor air issues. The \$15,000 membership fee for BCIA was reimbursed to HBI by the Tobacco Institute.<sup>133</sup>

HBI, financed by Philip Morris with well over \$500,000 a year, produced for several years a HBI magazine, which was sent out for free to between 300,000 and 350,000 “subscribers” worldwide. Paid subscriptions numbered only about 400, providing about \$24,000 annual income. Nowhere in the magazine was the tobacco industry’s funding for the magazine acknowledged, and the funding was provided by Philip Morris through Covington & Burling’s accounts, a law firm working for the tobacco industry. Given the declining tobacco consumption in the US, “the future of the tobacco industry was -- and remains – international.” Because Europe had very little indoor smoking restrictions in those days, the magazine should provide Philip Morris with “a means to influence the early debates. Philip Morris had paid for HBI inspectors to tour Switzerland and other countries during the 1980’s; HBI inspected 28 buildings and provided Philip Morris fodder for the company’s campaign to dissuade European authorities from adopting indoor smoking restrictions.”<sup>133</sup>

The way that the tobacco industry uses ACVA/HBI is well illustrated in how the US Tobacco Institute, the tobacco industry’s lobbying and political organization in the United States, used an HBI report in a press release on December 10, 1986, to argue against a clean indoor air law then under consideration in New York City. Subsequent to the publications of the U.S. Surgeon General’s 1986 report on secondhand smoke,<sup>54</sup> the debate about smoking restrictions in indoor public places, workplaces, restaurants and bars, among others, had become the focus of the New York State Public Health Council. The Public Health Council was relatively insulated from special interests, such as the tobacco industry, because its members were appointed rather than elected, therefore not being vulnerable to influences of financial contributions to political campaigns by the tobacco industry.<sup>123 pp. 16-19</sup> It was in this context that HBI’s study of indoor air quality in New York City restaurants and offices to support tobacco industry’s public claim that smoking restriction proposals were unneeded, was publicized. The Tobacco Institute’s press release stated:

“The levels of nicotine and particulate matter found in New York City indicate that smoking regulations are unnecessary in order to assure adequate indoor air quality,” said Gray Robertson, president of ACVA Atlantic, Inc., a Fairfax, VA., firm specializing in “sick building syndrome.”

...  
“These findings should be of vital interest to government officials who have not had the benefit of actual scientific tests in their consideration of the appropriateness of smoking restrictions,” said Scott Stapf, assistant to the president of the Tobacco Institute.

“This study clearly shows that environmental tobacco smoke (ETS) should not be an environmental concern to persons who work and eat in New York. These findings underscore the critical

importance of scientific measurements. If laws affecting the environment are going to be based on science – as we believe they should be – then those making regulations should have an accurate assessment of existing conditions.”

...  
“Results of this study indicate that ETS is not a problem in New York City offices and restaurants.” Stapf said.<sup>134</sup>

The industry claimed secondhand smoke is not a significant problem in New York City offices, and therefore, smoking restrictions were not necessary.

The results, however, were collected under very specific instructions to the HBI employees, so that they would minimize any tobacco smoke detected. Jeffrey Seckler, a former employee of HBI from 1989 to 1991, states in his civil action #93-0710 demand for trial deposited with the United States District Court for the District of Columbia on November 7, 1994:

... specific instructions and ground rules for HBI employees/technicians to follow applied to all of the buildings they inspected, private and public were: (1) when taking air samples for nicotine tests, they were instructed to take air samples in lobbies and other easily accessible areas where the circulation was best, thus reducing the readings; (2) if asked, always recommend to clients that any air pollution problem could be solved by better ventilation; (3) banning or restricting tobacco use or smoking was never to be recommended; and (4) every inspection report was to be reviewed and undergo final editing by either Mr. Binney (*vice president of HBI*) or Mr. Robertson (*president of HBI*) before it was sent out.<sup>131 p.7-8</sup>  
[emphasis added]

Once the Tobacco Institute had become the main client of HBI, the firm grew rapidly. As the above demand for jury trial documents, Reginald Simmons, another former employee of HBI, who was hired by HBI in January 1986 as a field technician and project team supervisor, states in his affidavit:

7. In January 1986, Reginald Simmons was hired by HBI President Gray Robertson as a field technician and project team supervisor; his job included performance of indoor air quality assessments. At the time HBI was still very small: in addition to Mr. Robertson, there was Mr. Peter Binney, whose title was Vice President and approximately two other employees. At the beginning, HBI did one or two jobs per week, often limited to cleaning ducts and other minor contracts. In the Spring of 1986, while working in an Oliver Carr building in Washington, DC an employee named John Madaris and Mr. Simmons were approached by a Vice President of the Tobacco Institute (which was apparently located in the building). He asked them a lot of questions about HBI and asked who he could talk to; they referred him to Gray Robertson. Shortly thereafter, there was a series of meetings between Gray Robertson and officials of TI. From that point (the end of 1986) HBI became very busy with projects for the Tobacco Institute; the phone was ringing every day and HBI was forced to hire new staff. (Affidavit of R. Simmons, attached hereto as Exhibit “BB,” hereinafter “Simmons Affidavit,” pp 2-3)

...  
Tobacco Institute becomes dominant client

8. Day after day, HBI inspected buildings in the Washington, DC area and other areas on the east coast for TI, including many building housing unions that the TI had relationship with. The inspection assignments were controlled by Gray Robertson and Peter Binney. (Simmons Affidavit, p. 3)  
9. At weekly staff meetings, HBI employees openly discussed all the work HBI was getting from TI and TI’s members, such as Philip Morris and RJ Reynolds. At that time (1986-1987) HBI also fostered a relationship with Fleishman Hillard, a public relations firm, and Covington and Burling, a law firm, both of whom were representing TI. By early 1987, HBI was receiving contracts from TI to inspect buildings throughout the United States. The staff was again expanded and HBI employees were literally flying in all directions of the country to do inspections for TI or its members. (Simmons Affidavit, p. 3)<sup>131 pp. 6-7</sup>

HBI's activities quickly expanded worldwide, including Switzerland. Far from being independent experts, tobacco industry representatives were heavily involved in all aspects of HBI's work. The demand for jury trial deposited by Jeffrey Seckler with the District Court of the District of Columbia in 1994 tells us how well Philip Morris treated the HBI employees sent to Switzerland:

In 1988 and 1989, TI and its members sent HBI employees throughout the world to perform special inspections for them. In February of 1989, eight HBI employees (including Mr. Simmons—a *field technician and project team supervisor*) were sent to Switzerland for a period of six weeks (two teams of four employees for three weeks each) to do dozens of inspections under the auspices of TI and Philip Morris. The Philip Morris officials were from Philip Morris Europe, Department of Science and Technology. Mr. Simmons still has their business cards – the officials included Dr. Pierre P. Ceschini, Principal Scientist, Dr. Peter Martin, Principal Scientist, and Dr. Helmut Reif, Principal Scientist; he worked with them in Neuchatel, Switzerland. While there Mr. Simmons and his HBI staff stayed in the most exclusive and expensive hotels and were told they could have anything and everything they needed. They were provided drivers that took them to each city and took care of all of their personal needs. On weekends they were allowed to go anywhere they wanted at the expense of Philip Morris. For example, one weekend they took Mr. Simmons and other HBI employees to St. Moritz, an exclusive Resort, where they went skiing; other HBI employees were taken to Venice and Florence, Italy. *In all of these HBI inspections, Philip Morris personnel were present.* The final reports for the Switzerland study were edited by Mr. Binney and Mr. Robertson. ... *At all times Mr. Simmons and his staff were under the control of TI or its members, such as Philip Morris, and there was usually a debriefing by said officials.* For example, following the multi-inspection tour in Switzerland, they were questioned by the three Philip Morris individuals mentioned above.<sup>131 p. 10-11</sup> [emphasis added]

HBI played a major role in influencing indoor smoking policy in the US. All the data collected by ACVA/HBI in Europe, including Switzerland would not have much impact, were it not for the strategic use of it through various media campaigns and “scientific meetings” that were organized to publicize its findings. Following are some examples of this strategy.

In addition to producing surveys of indoor air quality that met the tobacco industry's needs, Gray Robertson, president of HBI, participated in several of the tobacco industry's symposia and conferences on secondhand smoke and indoor air quality. For example, he participated in a conference on indoor air quality, called Healthy Building '88, which took place in Stockholm from September 5 to 8, 1988.<sup>61 p. 23</sup> From this conference on indoor air quality resulted a chapter by Gray Robertson in the book “Indoor and Ambient Air Quality.”<sup>135</sup> The chapter was entitled “Source, Nature and Symptomology of Indoor Air Pollutants” and it downplayed the importance of secondhand smoke as a source of indoor air pollutant and irritant. Smoking is only mentioned toward the end within a long chain of other potential indoor air pollutants, or it is mentioned under “Inorganic Oxides” section within the sub-chapter “Indoor Pollutants – the Types” (“Some of the more common ones are described below”)<sup>135 p. 311</sup>

#### INDOOR POLLUTANTS – THE SOURCES

*Virtually everything* we use in the interior sheds some particulates and/or gases.

... People themselves are a major contributor since each person sheds literally millions of particles, primarily skin scales, per minute. Many of these scales carry microbes but fortunately the vast bulk of these microbes are short lived and harmless.

Clothing, furnishings, draperies, carpets, etc. contribute fibers and other fragments. Cleaning processes, sweeping, vacuuming, dusting, etc. normally remove the larger particles, but often increase the

airborne concentrations of the smaller particles. Cooking, broiling, grilling, gas and oil burning, *smoking*, coal and wood fires also generated vast numbers of airborne particulates, vapors, and gases.

...  
Inorganic Oxides

... Carbon monoxide is emitted from unvented kerosene heaters or wood stoves and it frequently diffuses into buildings from automobile exhaust fumes generated in adjacent garages. *Small to trace quantities of each of these gases and other organics are present in cigarette smoke.*<sup>135 p. 311-2</sup> [emphasis added]

To close the circle, Robertson uses the data his company, ACVA/HBI, collected to minimize tobacco smoke's contribution to indoor air pollution, in his the chapter "Symptomology of Indoor Air Pollutants" to argue that tobacco smoke is an insignificant air pollutant.

... Without doubt, the pollutant most often blamed for these symptoms by the public is environmental tobacco smoke (ETS). However, there are usually confounding variables presented by a number of potential contaminants that precludes a quick analysis establishing a single source of contamination. The main problem being the incredible similarity between symptoms from widely different irritants or even environmental conditions. ...

This similarity of symptoms is usually unappreciated by the public and in part it accounts for a bias against tobacco smoke, which happens to be the sole visible air pollutant. ... *Despite being the main suspect of the occupants in many of the building we have examined, we have determined high levels of environmental tobacco smoke to be immediate cause of indoor air problems in only four percent of the 223 major buildings investigated by ACVA between 1981 and 1987* (see Table 2). *Significantly, in those few cases where high accumulation of ETS have been found, ACVA also has discovered an excess of fungi and bacteria in the HVAC* [heating, ventilation, and air conditioning] system. These microorganisms usually are found to be the primary causes of the complaints and acute adverse health effects reported by building occupants.<sup>135 p. 315</sup> [emphasis added]

ACVA/HBI's standard statement was that ventilation can solve the problem of smoking.

At least one of the two editors of the book "Indoor and Ambient Air Quality," R. Perry, College of London, is mentioned in a Philip Morris document under the tobacco industry's ETS activities, as a tobacco industry consultant. According to a memo written by Mary Pottorf, Philip Morris Management Corp. in New York, to Tom Osdene, R&D Richmond, Philip Morris USA, and Tony Andrade, Legal department of Philip Morris Europe, R. Perry received USD 107,600 in 1991 for his contract research on indoor/outdoor air pollution, important for the secondhand smoke debate.<sup>136</sup> The same memo by Mary Pottorf indicates that industry consultants' usefulness may have been judged more by their credibility in representing tobacco industry claims in public than the success of their projects:

Perry. This is a never ending, seemingly loosely managed program that has not fulfilled its early expectations. Because Perry is so valuable in other areas and this sprawling project seems to continue to give him credibility, we should continue funding, but with more narrowly defined, intermediate endpoints. Alternatively, supply unrestricted funds.<sup>136</sup>

The document entitled "ETS project management. Role of PMUSA Science & Technology: this department can design and implement a project control system for company-wide management of ETS activities." lists several projects carried out by consultants or by companies sponsored by the tobacco industry, where R. Perry and ACVA/LINK studies are mentioned:

\*PERRY--COLLEGE OF LONDON, IAQ AT THE WORKPLACE; RSP, CO, NICOTINE STUDIES IN ENGLAND; *RESULTED IN AN INDOOR AIR BOOK*; DEVELOPED A PASS UNIT

...

\*ACVA-- *SWISS IAQ SURVEY IN OFFICES*

GRAY ROBERTSON RUNS A VENTILATION BUSINESS, IAQ SURVEYS AND MEASUREMENTS – LOCATED IN ATLANTA

...

\*LINK—*INQUIRY ON THE NATURE AND OCCUPANCY OF SWISS OFFICES AND THEIR DISTRIBUTION*<sup>137 bates 2025800305</sup> [emphasis added]

Gray Robertson and his employees have testified before legislative bodies all over the US and even in other countries, e.g. in UK.<sup>8 p. 412, 138 p. 2</sup> In a letter dated August 11, 1987, to Guy L. Smith, Vice President of Corporate Affairs, Philip Morris, New York, Gray Robertson enumerates all the work he has been doing for the Tobacco Institute and declines to participate in a national media campaign for Philip Morris for reasons of the link between ACVA /HBI and the tobacco industry being uncovered by the media:

... Had you called me, my message would had been, sorry, at this time there is no way I could entertain further TV, radio, or press coverage. Since August 1986, working with Fleishman Hillard as PR agents, *I have visited 60 U.S. cities on behalf of the Tobacco Institute*. In each city we average two to three TV interviews, three to four radio shows, and one to two newspaper interviews, i.e. *over 480 media interviews in one year. Add to this one full week in Australia, one in Hong Kong, and one in Canada for national coverage on behalf of Philip Morris International* and it makes for a busy schedule.

When not occupied in media campaigns, I spend a considerable amount of time traveling the U.S. to appear in legislative hearings as an expert witness for the tobacco industry at city, state, and federal level. Two others of my staff deputize for me at these hearings if I am unavailable, though *I make it my policy to give such legislative hearings first priority*.

I understand from the Tobacco Institute and directly from the directors of both Philip Morris and R.J. Reynolds that *my testimony is one of the most convincing arguments your industry has in contesting anti-smoking restrictions*.

... It was with considerable trepidation, therefore, that we negotiated with the Tobacco Institute to start this last year's media tour. *Many felt that the media would quickly identify a link between ACVA and the tobacco industry that would jeopardize my future testimony on legislative issues. However, despite massive media attention, to date no one has identified such a link*, which reflects well on the tact and diplomacy of our public relations firm of Fleishman Hillard.

... Furthermore, it is the feeling of all my staff, also of the Tobacco Institute staff we work with and of our attorneys Covington & Burling, that *much of our success to date has been due to the "invisible bond" that exists between ACVA and the tobacco industry*. By too closely associating with any tobacco company, we may gain some short term PR gains, but will undoubtedly damage our value as "unbiased" and independent expert witnesses. With this uppermost in mind, I could not have agreed to participate in your media campaign.

It is with regret therefore, that I hear, after the fact, that you have commissioned Dorf and Stanton Communication to publicize this issue. Please ask them to stop because I simply cannot devote any more time whatsoever to this subject and *the direct visible association between ACVA and Philip Morris is potentially damaging to our role as expert witnesses. It is the opinion of the Tobacco Institute, and of the other tobacco companies, that it is vital that we do nothing to jeopardize our services in the legislative arena*.<sup>139</sup> [emphasis added]



## **ACVA/HBI in Switzerland**

ACVA/HBI's studies on indoor air quality were also used in Europe, including Switzerland to support tobacco industry's arguments against indoor smoking regulations. As so often, the tobacco industry was very careful not to disclose that the ACVA study was funded by the tobacco industry in order for the results not to lose credibility. Despite the fact that the tobacco industry played a major role in developing ACVA, Jean Besques, Manager Industry Issues, Corporate Affairs, Philip Morris EEMA says in a memo summarizing the minutes of the ETS strategy meeting on May 11, 1987:

*ACVA must be perceived to be at arm's length from the [tobacco] industry, including in media briefings. Its role at most should seem as yet another third party expert amongst others.*<sup>59</sup> [emphasis added]

By "third party," the tobacco industry meant an organization or an individual that had more public credibility than the tobacco industry itself, and which was usually sponsored by the tobacco industry, directly, or more often, indirectly through their law firms, such as Covington & Burling.<sup>133</sup>

The aim of the paper resulting from this ACVA study on Swiss office buildings was to counterbalance the effects of an earlier study which was commissioned by the Swiss Office for Energy Economics as part of a project of the International Energy Agency (IEA), the "Wanner report" or "Report 44." At the time there was great concern over the energy costs associated with heating and cooling air in buildings. Permitting smoking increased the level of ventilation required even to control odor, and public health advocates were using the potential energy saving associated with smokefree buildings as an argument for restricting smoking. Helmut Reif, Science & Technology, FTR/PM EEMA says in a report (recipient not known):

(3) The usage of this paper was explained as to provide the Swiss authorities with brand-new material which could [sic] replace the one used by the Wanner report and could lead to new insights in the domain [sic] of smoking and the working place.[Reisch, 1989 #134]

The Swiss report, written by J. Schlatter and H.U. Wanner, was based on a document of the International Energy Agency, called "Energy Conservation in Buildings and Community Systems Programme, Annex IX, Minimum Ventilation Rates. Final Report of working phases I and II, 1987;" it concluded:

### Tobacco smoke:

If the strictest criteria (no nuisance to nonsmokers, absolute elimination of any risk to health even of the most sensitive people) are applied to the definition of minimum ventilation rates for rooms where there is smoking, it becomes evident *that these criteria cannot be met by ventilation measures. The only alternative is strict segregation of smokers and nonsmokers.*<sup>62 p.51</sup> [emphasis added]

The report recommended the following:

### Control of sources

3. Smoking should be forbidden in rooms where there are children and sick people, and in large public rooms with natural ventilation. There ought to be no smoking, or smoking ought to be at least restricted, in residential rooms and other smaller rooms where there are nonsmokers. Where possible, smokers' rooms

or offices should be provided. Alternatively (for example restaurants or open-plan offices), as a minimum non-smokers' corners should be introduced.<sup>62 p.57</sup>

This recommendation was very strong for its time, particularly in Europe.

In Switzerland, Philip Morris also commissioned a study on the composition and distribution of office buildings by LINK, a Swiss survey institute, in order to “explain” the differences found between the ACVA study and the report written by Schlatter and Wanner. The results of the ACVA and LINK study were used to influence the decision makers and opinion leaders in the regulation of workplace smoking. A working paper, written by Ulrich L. Crettaz, manager of industry and economic affairs, FTR, dated September 20, 1989, is entitled “Merchandising ACVA/LINK study. Action plan.” It contains Philip Morris’ strategies for meeting the objective of influencing key decision makers and opinion leaders, as well as a list of the 19 target organizations and their respective individuals. The document tells why Philip Morris funded the ACVA and LINK studies. The studies were to support the tobacco industry’s argumentation that ETS was only a minor problem negligible when seen in the context of indoor air quality. The results of the ACVA and LINK studies would have helped the tobacco industry to weaken the formulation of the revised workplace law (OLT-3), which would have introduced more stringent regulations regarding smoking at workplace (for details, see later in the workplace smoking):

In order to support and make more credible general argumentation on ETS with regard to Indoor Air Quality, and in particular with regard to the smoking at workplace issue (OLT3), PM (S&T) [Philip Morris, Science & Technology] ordered and organized the realization of an “Indoor Air Quality Survey of Twenty-six Swiss Office Buildings.” This survey was executed by ACVA Atlantic Inc., USA from February 7, 1989 to March 15, 1989.

The IAQ survey has been completed by a statistical analysis of the 79’200 Swiss commercial and industrial exploitations and of the respective buildings and offices (LINK study).

The LINK study’s objective was to show that the ACVA study can be considered as reasonably representative of buildings as a whole, in Switzerland.<sup>140</sup>

It goes on to list the objectives for “the merchandising of the ACVA/LINK studies:”

- To inform all concerned and interested people and organizations on the facts and the truth concerning ETS and its significance in the context of IAQ in general, of Swiss office buildings and the respective workplaces in particular.
- To help those responsible to make appropriate and reasonable decisions concerning the smoking at workplace regulation (OLT3) and further threats of regulations with regard to ETS/IAQ.<sup>140</sup>

And, Philip Morris’ -- and the tobacco industry’s strategy, since Philip Morris often was the mastermind for the national manufacturers association -- is detailed in the following section:

- a) To present the results (overall results and results relative to specific buildings) to relevant target groups (employers, employees, authorities, preventive medicine).
- b) To publish the ACVA survey (summary) in a scientific or quasi-scientific journal.
- c) To get published extracts, summaries and comments concerning the ACVA survey in professional magazines.
- d) To inform of the facts and the truth concerning ETS and its significance in the context of IAQ in general.<sup>140</sup>

The ACVA and LINK studies were to be presented to the following organizations in a one-day session in Bern on March 15, 1990:

- a) To relevant authorities and offices within the Federal Administration (cf. separate list).
- b) To relevant employers' and economic organizations of national / federal importance (cf. separate list).
- c) To relevant employees organizations of national / federal importance (cf. separate list).
- d) To relevant professional organizations of national / federal importance (cf. separate list).<sup>140</sup>

The program of the session was carefully thought out in order to include official representatives of the above organizations, including the relevant offices of the federal administration. Among others, Gray Robertson, president of HBI, gave a talk as an introduction to the ACVA study.<sup>140</sup> We do not have any information on whether this meeting took place.

The results of the same ACVA study were later used in the already mentioned HoReCa newsletter by the International HoReCa to convince its members that secondhand smoke was not a significant indoor air pollutant and that it can be managed through adequate ventilation.<sup>129</sup> After presenting HBI (Healthy Buildings International, ACVA's new name) as "the leading firm in the field,"<sup>129</sup> the results are presented in the special report summary dated October 1989, which was distributed to the members of International HoReCa.<sup>129</sup> bates number 2025477415

#### WHAT DID THEY FIND?

1. Worldwide, restaurants are not exposing their patrons to unhealthy or dangerous levels of nicotine, even where no smoking restrictions exist.

HBI compared actual concentrations of nicotine measured with widely accepted standards for exposure to nicotine. None of the studies showed average nicotine levels even approaching the British and American safety limits established.

2. Based on the nicotine content in an average cigarette and the average amount of air inhaled during a specific period, HBI establishes a measured nicotine concentration in indoor air in terms of "cigarette equivalents."

A diner would have to spend 141 continuous hours sitting in a "world average" restaurant before inhaling the nicotine equivalent of one cigarette.

3. Tobacco smoke does not figure prominently in the air content of a restaurant.

The results show that in general 30 percent of suspended particulate matter in the air originates from tobacco smoke. Further, it makes hardly any contribution to carbon monoxide levels. Far more significant sources of carbon monoxide in restaurants are actually motor vehicle emissions and cooking sources.

4. The most effective way of reducing all indoor pollution in any restaurant space is to have adequate ventilation rates.

Several HBI studies compared ventilation rates to tobacco smoke levels. The results pointed to a dramatic reduction not only in tobacco smoke but in overall levels of many other indoor pollutants when ventilation was improved.

HBI concludes that adequate ventilation helps provide a cleaner, more enjoyable dining experience and may, in time, make the question "smoking or non-smoking" less relevant to restaurant operation.<sup>129</sup>

Once again, the tobacco industry used its well-established strategies developed in the US in order to manipulate tobacco policy in another country, Switzerland in this case. The collection of indoor air quality data by a company later unmasked as tobacco industry sponsored, and accused by a former employee as having deliberately altered collected data in favor of the tobacco industry's claims that secondhand smoke was not an important factor of indoor air quality, was employed in Switzerland to collect indoor air quality data in Swiss offices. Gray Robertson, president of AVCA/HBI, also presented at the meetings to which Swiss officials, such as from the Swiss Labor Office and Swiss Employers Union, were invited. These "findings" from the ACVA/LINK studies were recycled for the newsletters and special reports of the International HoReCa in order to convince the members of HoReCa to oppose smoking restrictions in restaurants, cafes, and hotels. The members of HoReCa, as most of the members of the organizations that were manipulated by the tobacco industry, such as the International Flight Attendants Association (IFAA, see below), were most likely not aware of the tobacco industry's influence on their organization. It is very likely that, would members of these organizations have known the behind-the-scenes role of the tobacco industry, many of them would have made a better informed choice concerning the issue of secondhand smoke.

## Chapter 7. Smoking in Airplanes, International Flight Attendants Association, and Swissair

Another worrisome development for the tobacco industry was the increasing number of airlines that ended smoking in the airplane cabins in the late 1980's and early 1990's, particularly after WHO suggested in August 1990 that all airlines should consider ending smoking in their flights.<sup>141</sup> The tobacco industry had two main approaches to this problem. First, it sought to directly influence the airlines through talks with officials of airlines and sponsoring of annual meetings of the International Flight Attendants Association (IFAA). As so often, this was done through direct contact with a key individual, in this case, the president of the association. Second, smoker clubs were "activated" in order to influence public opinion on smoking in airline cabins.<sup>141</sup> More specifically, members of smoker clubs were asked to write to airlines and also letters to newspapers.

We do not have any information on how the then-president of IFAA, Peter A. Tronke, got involved with Philip Morris, or what his motivations were to collaborate with Philip Morris. In 1988, Tronke wrote to Paul Maglione, Philip Morris Lausanne, Switzerland, and told Maglione how difficult it was for him to convince the IFAA Board to have Philip Morris sponsor the congress and in return have the opportunity to talk to the participants about indoor air quality issues:

During our board meeting in Budapest last week, we had a very thorough discussion about the latest developments with regard to smoking bans.

...  
The Philip Morris sponsorship of the 8<sup>th</sup> IFAA World Congress in Brussels next year was a matter discussed with mixed emotions, as you can imagine. Although it wasn't easy, we did come to a conclusion which I personally think will turn out beneficial for both, P.M. and IFAA!

...  
For the World Congress at the Hotel Metropole Oct. 23.-25., 1989, the IFAA Board followed my suggestion to offer P.M. two hours on Inflight Air Quality. The Board agrees with me that a European scientist should hold the lecture; and I personally prefer a female scientist from Belgium or France, if possible. P.M. is also allowed to set up a chamber/booth for the demonstration of the case holding the equipment collecting the various data. For both, the demonstration plus lecture, two hours should be sufficient, I guess.<sup>142</sup>

As before for the congress in Zurich, Switzerland, in 1987, similar conditions were negotiated. However, the president of the IFAA asked for some additional funding:

From our Brussels World Congress we expect a similar or even greater response as we had in Zurich and plan to invest a lot of money. We would appreciate [sic] a P.M. contribution of about SFr 70,000.- 80,000 [approximately USD 50,000-60,000] — to help us also to pick up the expenses for attendees coming from underdeveloped countries. Concerning all other conditions, we could copy the agreement signed for the Zurich World Congress last year, if you like.

Dear Paul, I sincerely hope you will accept our proposal, which, I can assure you, wasn't easy to get the approval for. ...<sup>142</sup>

We do not have more information on what resulted from this collaboration.

At the same time, the tobacco industry was having discussions with Swissair about its policy on smoking with favorable results for the tobacco industry. Philip Morris began to work with the Zurich and Geneva offices of Burson-Marsteller (BM), a major world-wide public relations firm that does extensive work for Philip Morris. As the EEMA region annual report regarding PMI corporate affairs action plan for Switzerland informs:

Beginning in August [1989] FTR began working with the Zurich and Geneva offices of BM [Burson-Marsteller] as the in-market affiliate agency for communicating industry/PM messages.<sup>85 bates 2500019968</sup>

The same annual report tells us how Philip Morris plays a game of a “double agent” by using two airlines’ statements against each other in order to convince both to keep smoking seats in airplanes:

Pursuant to an on-going dialogue between FTR CA [Fabriques de Tabac Réunies Corporate Affairs] and Swissair Management, Swissair reconfirmed publicly its policy of providing seats to both smoking and non-smoking passengers. This story was widely publicized via the PM/BM Communications Program. Swissair and its affiliate Balair have been both provided with the SAS IFAQ [In-Flight Air Quality] study. We are also trying to use Swissair’s recent agreement to affiliate in Europe with SAS to persuade SAS to follow Swissair’s in-flight smoking policy.<sup>85 bates 2500019965</sup>

Parallel to the activities related to in-flight smoking on Swissair flights, there were efforts going on to influence smoking policy on airplanes all over Europe and the Middle East.<sup>85 bates 2500019965\_9966</sup>

### **Swiss Smokers Organizations**

Similar to the US, the tobacco industry has worked to organize smokers and present industry-funded “smokers’ rights” groups as simply collections of concerned citizens. For example, in a press release dated August 1990, the Swiss Smoker Club criticized WHO’s demand for smoke-free airplanes. The Smoker Club also accused WHO of serving the “anti-tobacco fanatics.” The issue around secondhand smoke is called an “intoxication theory” and it is claimed that smoking bans are used to distract from the problem of poor air quality in the airplanes.<sup>141</sup>

Tobacco industry documents reveal that the Swiss Smoker Club received substantial financial support from the Swiss national manufacturers association (NMA, ASFC). In an interview given to Ursula Buschor, a journalist with the “Blick,” a popular paper with the largest readership among newspapers in Switzerland, by the founder and president of the first smokers’ club in Switzerland, Peter Jaeggi, the latter denied any financial support by the tobacco industry, saying:

Wir bekommen weder Geld noch Hilfe von der Tabakindustrie. Wir vertreten die Raucher, nicht die Wirtschaft!  
[We do not receive money nor help from the tobacco industry. We represent the smokers, and not the economy]<sup>143</sup>

This claim may have been true at the time the club was founded; within a year however, the tobacco industry, upon Philip Morris' initiative, started funding the Smokers Club:

Pursuant to FTR's [Philip Morris Switzerland] initiative, *the Swiss NMA (ASFC) began this year to provide substantial support (SFR 80,000) to the Swiss Smokers' club, RAUCHER-CLUB*. During March RAUCHER-CLUB generated significant publicity in Switzerland and internationally by offering to pay "in the interest of worldwide smokers' solidarity" the fines of smokers jailed in the Philippines. This summer RAUCHER-CLUB filed a petition with over 18,000 signatures with the Swiss Federal Council urging that the government cease wasting taxpayers funds on campaigns harassing smokers. The club has over 500 members.<sup>85 bates 2500019972</sup> [emphasis added]

When the club was founded, it received wide publicity through articles in major newspapers.<sup>144-146</sup>

Several years later, in 1997, after Swissair had finally introduced non-smoking on all flights to the USA, a "new" smoker organization called "Club of Tobacco Friends" (Club der Tabakfreunde) criticized Swissair for its non-smoking policy. A newspaper article in a weekly newspaper was entitled "the flying smokers are fed up with paternalism" (die fliegenden Raucher haben die Bevormundung satt). The president and founder of the club is Othmar Baeriswyl, a former public relations official for the Swiss tobacco industry. As with similar organizations in the US, he had to admit that the tobacco industry supports financially the publication of a glossy newsletter, but insisted that the tobacco industry agreed to support the newsletter only after some hesitation, and that it was a very small supplementation.<sup>147, 148</sup> In another newspaper article a year before, Baeriswyl had stated that his Club received only modest sponsoring from the tobacco industry.<sup>149</sup> Baeriswyl also placed at least four identical articles in major newspapers in different regions in July 1997. In these articles he lamented the diminishing social status of the smoker, and Baeriswyl also pointed out that the Swiss pension fund "depended" on the cigarette excise tax, a common tobacco industry argument.<sup>150-153</sup>

As in the US, the tobacco industry in Switzerland used front organizations, such as smoker clubs, to send their messages across to the public without having to expose themselves as the true origin of special interest messages. These "smokers' rights" groups were either supported or created by the tobacco industry when they realized how successful the tobacco control forces were with such grassroots movements as the smokers' rights organization in controlling the local legislative agenda.<sup>121</sup> Even though it is difficult to know how much impact the Swiss smokers' organizations have had on smoking policy, there are several examples of media advocacy by the Swiss smokers' organizations. Swiss citizens need to be informed about these tobacco industry front organizations more widely, so they can make informed and unbiased choices made about smoking regulations.

### **Smoking in Railways**

Following is a short section on smoking in railways and ASFC's successful letterwriting and lobbying. This quote comes from a document called "Switzerland – 1987 objectives":

...the regional new railways in Zurich will not totally ban smoking as antis asked for. In fighting this issue, the ASFC developed an action of letters to the publisher and directed lobbying action towards the cantonal authorities of Zurich and the head of the national railways.<sup>126 p.11</sup>

The tobacco industry also tried to influence smoking policy in trains, among other ways, through invitation of key persons from the main railway car builder in Switzerland. The intention was to influence their opinion through briefings, then “morally” bind them by inviting them to lunch and showing them around in the factory.<sup>154</sup>

Here again, the tobacco industry knew how to connect to potential allies and “make friends” with them in order to further their particular interests. And often they were successful.

In 1994, the Swiss Federal Railways (CFF) reversed a 1992 decision to make regional trains smoke-free until 1996. According to a Philip Morris Corporate Affairs Weekly Highlights March 28 to April 1, 1994, written by Jan Goodheart, Manager of Philip Morris Worldwide Regulatory Affairs, “the press release attributed the policy change to increasing conflicts and material damages in smoke free trains. In December 1993 a public opinion survey was conducted by the tobacco industry in cooperation with the CFF which revealed that 44% of train passengers were in favor of offering smoking sections in regional trains, while only 30% favored smoke-free trains. Various alternative solutions are currently being examined.”<sup>155 bates 2025840477</sup> And, “a petition submitted to Swiss Parliament calling for smokefree areas in Swiss railway stations has been rejected by the Lower House on March 19th.”<sup>155 bates 2025840477</sup>



## Chapter 8. Workplace Smoking

Regulation of smoking at workplace was felt as yet another threat by the tobacco industry. Already in 1988, when an article in the federal labor law (article 19, ordinance for protection of the non-smoker) was in its planning phase, the tobacco industry was proactively working out an action plan to counter any regulations and influence the legal process from the start, as an inter-office correspondence of Philip Morris EEMA shows:

Problem addressed: Planned article 19 to regulate smoking at the workplace (two main features: article concerned with passive smoking specifically, rather than employee's health; employer would be responsible for making own regulations).

...

1. ... summarise what has been done elsewhere to deal with ETS at the workplace and to define ways of attacking the problem in Switzerland (from a scientific standpoint).
2. ACVA to conduct a worksite survey in Switzerland.
  - Hga/HER to brief Gray Robertson on the IEA/Schlatter Wanner studies on the energy cost of ETS.
  - Gray Robertson to draw up and present conclusions of the survey.
  - Cost estimated at FS 150,000 to be borne in whole by S&T.

(The ACVA study is to serve a double purpose; - provide argumentation rapidly before any major project yields useful findings; - serve as a pilot study for a large-scale survey).

3. Document challenging Article 19 to be prepared by Hga, RAP and Charles Lister on following lines:
  - (a) Results of the ACVA survey (Gray Robertson)
  - (b) ETS to be put in the IAQ context (Charles Lister)
  - (c) Health risks comparison based on international results (Frank Lunau)
  - (d) Recommendation to the Swiss authorities of air quality/ventilation standards (Frank Lunau/Charles Lister)
  - (e) Implications of planned legislation (in terms of employees' health, employer's liability, respectively) (Hga/RAP/Swiss lawyer?)<sup>156</sup>

Shifting the debate to indoor air quality (IAQ) was again a major part of the tobacco industry strategy, and the ACVA/HBI study and HBI's president were once again major players.

By 1990, the tobacco industry was consulted by the Swiss Federal Department for Economic Affairs to comment on the labor law revision concerning workplace smoking. The draft of the article 19 for the protection of the non-smoker read:

“Der Arbeitgeber hat im Rahmen der betrieblichen Möglichkeiten dafür zu sorgen, dass die Nichtraucher nicht durch passives Rauchen in ihrer Gesundheit beeinträchtigt werden.<sup>157</sup>

[The employer, within the framework of operational possibilities, has to ensure that non-smokers' health is not harmed by secondhand smoking]

In its official commentary, as expected, the tobacco industry criticized article 19 for the protection of nonsmokers by using well-known arguments. They argued that there was no scientific evidence that secondhand smoke was harmful for health, that the ordinance was a misleading special regulation for a minority to protect them from an inconvenience, and that the ordinance did not improve air quality, but instead, pushed forward “solutions” that would not undermine the social acceptability of smoking or impact cigarette sales:

- a) Bestimmung zum Schutz von etwas, dessen Existenz fragwürdig ist.

- b) Irreführende Sonderbestimmung für eine Minderheit zum Schutz vor einer Belästigung.
- c) Eine Bestimmung, welche die Luftqualität nicht verbessert, sondern zu Scheinlösungen drängt.
- [(a) Regulation to protect something whose existence is questionable.
- (b) Deceptive special regulation for a minority to protect from an annoyance.
- (c) A regulation, which does not improve air quality, but presses for mock solutions.]<sup>157</sup>

In the Philip Morris long range plan 1993-1995 for Switzerland, the components of the comprehensive strategy to influence the revision of the ordinance for non-smoker protection was listed:

#### Workplace Smoking: OLT-3 Action Plan

A smoking at workplace regulation threat, via the Draft Labour Law Ordinance, called OLT-3, is pending since end 1989. A decisive step has been taken by the Federal Council, when, in Spring 1992, it put to public consultation the Draft Ordinance ruling on hygiene at the workplace. A final decision is expected to be taken by the Federal Council not earlier than beginning of 1993.

- Elaborate a follow-up action plan in the event that specific regulation regarding “*ETS/smoking/health protection*” were introduced, despite the support at consultation by the entire Swiss industry and economy of industry’s counter-proposal. The aim of the action plan, to be developed in collaboration with main economic associations (Vorort/USAM), would be to ensure a *moderate and common sense application* of such a regulation.
- Further disseminate Swiss “*Good Air Quality at Workplace*” leaflet.
- Establish direct contacts with major companies, Jacobs Suchard included, in order to give input for a *voluntary accommodation policy*.
- Maintain existing contacts and develop relations with relevant economic and political environment (ventilation industry and engineers, architects, building contractors, personnel manager associations, labour unions, occupational safety and health authorities) with the aim to *promote IAQ and accommodation solutions*.
- Identify psychologist for undertaking research on the adverse impact of repressive smoking bans and restrictions.
- Develop argumentation and communication re the S&H [smoking and health] issue in the wider perspective of “*social engineering*.”<sup>65</sup> p. 16 [emphasis added]

When the revised ordinance finally went into force in October 1, 1993, it left a good deal of freedom of interpretation to the employer, and reflected the tobacco industry’s success in “softening” the wording of the ordinance. The word “health” had disappeared and was replaced by “inconvenience.” “The employer, within the framework of operational possibilities, has to ensure that non smoking labor is not inconvenienced by other people’s tobacco smoke.”<sup>20, 21</sup>

We do not have information on what the public health advocates undertook to counter the lobbying of the tobacco industry. Maybe they were not aware of the enormous influence of the tobacco industry, or they simply did not have the political will to oppose the tobacco industry’s influence, or both. Whatever the case, this major victory of the tobacco industry in the revision of the ordinance regulating workplace smoking is another sad demonstration of the underestimated influence of the tobacco lobby. The tobacco industry continues to hinder proper smoking regulation at the workplace and elsewhere in the interest of corporate profit, undermining the prevention of unnecessary suffering and thousands of untimely deaths due to smoking and passive smoking.

## Chapter 9. Advertising

### ***1979 Referendum on Tobacco and Alcohol Advertising Ban (Guttempler Initiative)***

During the early 1970's, many countries were beginning to impose strong advertising regulations on tobacco products. Norway introduced a total advertising ban under the Tobacco Act of 1975. Finland banned advertising and sales promotion of tobacco in 1978. Sweden introduced anti-smoking legislation in 1977 which made 16 different health warnings on cigarette packs compulsory, and in 1979, regulations were introduced which restricted cigarette advertising in newspapers and magazines.<sup>158 pp. 277-278</sup> Even more influential for Switzerland, Germany introduced a new food law in 1974 that allowed the government to impose restrictions on the tobacco industry without having to obtain the approval of the German parliament. It also banned tobacco advertising on the radio. (The tobacco industry had eliminated TV advertising voluntarily to avoid government restrictions.<sup>159</sup>) All these actions helped generate interest in advertising restrictions in Switzerland.

In Switzerland it is possible for concerned citizens to enact a law by direct popular vote through the initiative process, thus bypassing legislative bodies which are dominated by special interests like the tobacco industry. Once more than 50,000 signatures are collected and submitted to the government, the Federal Council, a 7-member executive body of the government, reviews the initiative as to its content and advisability. Thereafter, the Federal Council has up to two years to submit a report to the Federal Assembly, the unified legislative body of the two chambers. The Federal Assembly then has the option of 1) approving the initiative and putting it to a vote of the people with or without a recommendation of acceptance, 2) rejecting the initiative and putting it to the vote with or without a recommendation of refusal, or 3) rejecting the initiative, then putting it to a vote of the people together with a counter-proposal. The Federal Assembly has up to four years, once the signatures are handed in, to reach a decision before the vote. For the initiative to be successful, it has to win the majority of both the voters and the cantons.<sup>160</sup>

On April 10, 1976, the Temperance Society ("Guttemplers") started this process when it submitted enough signatures (77,307) to require a vote on people's initiative that, if enacted, would impose a total advertising ban on alcohol and tobacco products in Switzerland.<sup>161</sup> The Temperance Society is an international organization that had more than 1 million members in over 40 countries in the 1970's. They are "both politically and religiously neutral," and aim toward a "better life through brotherhood and abstinence from all drugs."<sup>160</sup>

Even before the signatures for the first people's initiative on tobacco advertising were submitted to the Swiss government in 1976, Philip Morris was preparing itself to fight advertising bans. Paul Isenring, Director of Industry Policy Coordination for Philip Morris Europe, Middle East, Africa, had secured the support of Blöchlinger, president of the Association of the Editors of Swiss Dailies, whom Isenring had known for more than two years, during a meeting in Lucerne on June 7, 1974,<sup>162</sup> to oppose advertising restrictions. Blöchlinger promised to promote the "Freedom and Responsibility" argument, put forth by the tobacco industry in order to combat any marketing restrictions. The "Freedom and Responsibility"

argument was used to counter the impending advertising restrictions in Switzerland. The “Action Freedom and Responsibility” was developed to provide tobacco industry spokespeople with the common arguments against tobacco control advocates positions in Europe, the Middle East, and Africa in 1974, to assure a unified position with policy makers, the public, the media, and to counter critiques from tobacco control advocates.<sup>162 pp. 1-10</sup>

Regarding the Swiss situation, Isenring reported a close relationship with the Swiss media:

I have known Mr. Blöchlinger for more than two years. In Spring 1972 we discussed the problem of cigarette advertising restrictions. He agreed from the very beginning to cooperate with the industry because he strongly felt that the advertising restrictions of cigarettes would mean the beginning of further restrictions of personal freedom (including advertising restrictions of other products). He therefore supported the foundation of the action “Freedom and Responsibility” together with a number of other Swiss political, economical and industrial personalities, associations and groupings.

The Swiss dailies give now free space for objective information on the problem “Freedom and Responsibility” and the subject will also be treated at the Swiss television. You find enclosed the activity program from September 5, 1973 of the action “Freedom and Responsibility.”

Mr. Blöchlinger feels that, in the context of smoking and health, objective information on the existing controversy should be given by the daily papers and not only the negative anti-smoking part of the story. He agrees to *put at our disposal the channels to the Swiss dailies and to approximately 9 other European countries* as soon as we are ready with a source of information.<sup>162</sup> [italic emphasis added]

This cooperation between Philip Morris, Europe, the dominant force among the tobacco firms in Switzerland and worldwide, and the president of the association of Swiss newspaper dailies foreshadowed a difficult fight for the supporters of the advertising ban.

This difficulty was increased by the fact that the people’s initiative called for ending advertising not only on tobacco but also alcohol products, giving the alcohol industry a strong motivation to join the tobacco industry in opposing the initiative. The task force (see Table 1 for a list of members) on Swiss referendum at the headquarters of Philip Morris Europe in Lausanne, Switzerland, on January 25, 1978 identified the importance of working with the alcohol industry.

As a final point, Mr Schedel identified the groups that are likely to support the efforts of the tobacco industry, as follows:

- a) Full use should be made of the “tobacco family,” particularly the tobacco growers (FAPTA). Though tobacco growing is not so important in Switzerland, the growers belong to the farming community and it can be expected that they will be supported by the agricultural cantons.
- b) There are also other important “influence groups” which will be worthwhile contacting, e.g. the print media, the advertising profession, PROMARCA (Société suisse de l’industrie des biens de consommation) [Swiss society of the consumer goods industry], the Vorort (Directoire de l’Union suisse pour le Commerce et l’Industrie) [Swiss federation of commerce and industry]
- c) Consideration should be given to talking to and enlisting *the support of the Association of wine-growers, liquor distillers and brewers.*<sup>163 pp. 60-61</sup> [emphasis added]

Table 1

Members of the ICOSI Task Force on Swiss referendum  
(International Committee on Smoking Issues)[, 1978 #4 p. 57]

Chairman:	Harold H. Schedel Marketing Director, Switzerland, Philip Morris Europe, Lausanne
Members:	D.F.L. Needham Strategic Planning, Gallagher Limited, London
	W. Stamm Reemtsma Cigaretten A.G., Gontenschwil
	Dr. J.P. Lichti Lawyer, Chairman of the Executive Board, Imperial Tobacco (Switzerland S.A., Geneva)
	L.P.A. Price Director of finance and administration, BAT (Switzerland) S.A., Geneva
	Dr. St. Suwald Responsible for Finance and Administration, Sullana A.G., Wetzikon

The tobacco industry also decided to seek a compromise that would avoid the initiative by amending the Food Law, which covered tobacco, in a way that would have minimum impact on the industry but which could be used to fight the initiative.

Specifically, the tobacco industry task force on the Swiss referendum identified “the amendment to the Food Law (ODA, amendment of chapter 33 of the food law concerning tobacco and tobacco substitutes)<sup>163 p. 75</sup> as related to tobacco products” as “a key issue which will inevitably have a major effect on the Government’s attitude regarding the appropriateness of the Guttempler initiative.”<sup>163 p. 59</sup>

In July 1977, the tobacco industry was satisfied with the proposal they had worked out with the “Department of Health”<sup>163 p. 55</sup> (most likely the Federal Office of Public Health).

...the Industry Association had worked out with the Department of Health a proposal last year, which was quite acceptable for the industry, since the major change from today’s situation would have been a warning label in a fairly soft version talking only about the “abuse.” This proposal has been given into the consultation phase and received hard attacks from the anti-smoking forces who are asking for much tougher regulations.<sup>163 p. 55</sup>

Before an amendment to the food law could proceed, however, the government had to consult with 17 organizations, including several consumer organizations, tobacco control organizations,

as well as the Swiss federation of tobacco industry (FIST, Fédération de l'Industrie du Tabac) To the tobacco industry's dismay, during the consultation process tobacco control advocates demanded a much tougher regulation, making a new round of negotiations between the Health authorities and the tobacco industry necessary.

In the first industry task force on Swiss referendum meeting on January 25, 1978, it was decided that several studies needed to be done in order to better analyze the situation and to come up with a strategy. The studies that were planned were:

- one on product liability: under the assumption that the initiative would be accepted and in case the tobacco becomes included under the law covering toxic substances.
- The latter one, because several cantonal chemists have proposed this to the Health department. Another study, which is under way now, is an opinion pool [sic].
- Also we make a study on advertising overspill into Switzerland. This may become a key economic argument which may well be valid for our "allies" of the print media.<sup>163 p. 56</sup>

The industry selected Dr. Brandt, an advisor to the government on the food law, to carry out this study on product liability;<sup>163 p. 64</sup> we do not know whether this study was ever carried out.

The main proposals the Federal government received during the consultation phase are listed in the minutes of the January 25, 1978 meeting of the task force on Swiss referendum of ICOSI (the International Committee on Smoking Issues, the tobacco industry's international coordinating body on political issues; see appendix for a list of the members of the task force on Swiss referendum of ICOSI):

- mention of the numbers on cigarette packs (4 numbers)
- a tougher warning label than the one proposed [by the government]
- a ban on theme/image advertising<sup>163 p. 59</sup>

Knowing the potential impact of the food law for the outcome of the referendum on total advertising ban, the tobacco industry was willing to make compromises in order to weaken the advertising ban initiative, as the introductory remarks by the chairman of the task force on Swiss referendum, Harald. H. Schedel of Fabriques de Tabac Réunies S.A. (Philip Morris in Switzerland) reveal:

So we will be confronted in the next months with rediscussing the entire issue with the Health authorities. Whatever will be the outcome of these discussions, it is clear that on some points *we will have to make concessions if we want to avoid that the Health department is recommending to the Federal Assembly to support the initiative or making a counter-proposal negative for us.*<sup>163 pp. 55-56</sup> [emphasis added]

In the general briefing of the task force on Swiss referendum in the meeting minutes of the third meeting of ICOSI in Hamburg on March 9 and 10, 1978, the idea of supporting the amendment of the food law in order to preempt the total advertising initiative is laid out more explicitly:

It may well be in the industry's interest to renegotiate a reinforced Food Law as a valuable argument against the Initiative, since the Federal Council can either propose to the Chambers a counter-proposal to the Initiative or recommend its refusal without a counter-proposition, stating the modifications to the Food

Law are satisfactory and achieve the objectives set up by the Department of Internal Affairs, i.e. protection of youth.<sup>163 p. 76</sup>

The opinion poll the task force wanted on the idea of an advertising ban in Switzerland was done by INBIFO (Institut für Biologische Forschung, a German Philip Morris research institute) in April and May of 1978. This large survey included 3,000 weighted interviews with oversampling of small cantons, of which 51%, or 1,518 had strong intentions to vote.<sup>164</sup> The results were not encouraging for the tobacco industry. Strong majorities of total population (62%) and those with strong intentions to vote (71%) supported an end to tobacco advertising (the wording of the questionnaire are not known to us), while only 23% (total population) and 20% (strong intentions to vote) supported the status quo.<sup>164</sup>

Similarly, among smokers and non-smokers, 56% and 69% favored a ban on advertising. A national opinion survey conducted by Publitest AG (we do not know whether this poll was sponsored by the tobacco industry or not) a year prior to the industry sponsored study had already shown that a majority of the Swiss population favored a total advertising ban on tobacco (59.1%), even though in the French part of Switzerland slightly more people were against the ban than for it (49.7% vs. 47.6%).<sup>163 p. 65</sup> The newer study had been done by Philip Morris because it felt that the earlier study was out of date and too limited in scope due to its smaller and less representative sample.<sup>163 p. 66</sup>

The tobacco industry mobilized against the initiative through its well-established tactics of creating controversy and lobbying via a public relations agency. According to a meeting agenda of the third meeting of the International Committee on Smoking Issues (ICOSI, whose name was changed to International Tobacco Information Center/Centre International d'Information du Tabac - INFOTAB, on December 8, 1980),<sup>165</sup> the tobacco industry planned

...dissemination of material to the press and to give flexible responses on Smoking and Health attacks with the aim to achieve awareness in the public about the existence of an ongoing controversy.

...the necessity of employing a leading PR agency. Their role will be the lobbying in the different parliamentary commissions and the coordination of the efforts on all levels the "Anti-Initiative Commission" – which will be the official body to recommend to the voters the rejection of the initiative – will have to undertake.<sup>163 p. 56</sup>

After consideration of the "anti-smoking and anti-alcohol groups," the tobacco industry decided that it would not help the industry to attack its opponents based on political ideology or to generate "controversy" about smoking and health:

a) our enemies do not necessarily belong to the Left and therefore cannot be categorised according to their political beliefs.

b) it would be unwise for the industry to exercise any pressure on these groups as no benefit would be derived from re-hashing the emotional issue connected with the smoking and health controversy.<sup>163 p. 67</sup>

Finally, the tobacco industry also felt that compromising by ending theme/image advertising, while helping defeat the initiative, could result in losing full support of their allies.

It was felt that if the Industry were to give in to a ban on theme/image advertising , which could result in the Initiative being rejected, our natural allies (print media, advertising profession, etc.) may not give us full support as they might be tempted to think that they would still get the same level of business from the tobacco industry.<sup>163 p. 68</sup>

At the same time, the task force was very concerned about the potential impact of an advertising ban in Switzerland on neighboring countries. The introductory remarks to the report on the task force on Swiss referendum by Harald H. Schedel, Chair of the task force and marketing director of Philip Morris Europe, observed:

...the Swiss task force is fully aware that a ban of advertising in a liberal country like Switzerland would have strong negative influences on the attitude of neighboring countries [sic] governments. This is one reason more for fighting united on this issue.

I am confident that with concerted actions we have a good chance to defeat this very dangerous threat.<sup>163 p. 56</sup>

Despite the fact that the tobacco industry's own polls showed substantial public support for ending advertising in 1977 and 1978, the industry was able to defeat the initiative. Mary Covington, secretary general of INFOTAB (the International Tobacco Information Center, formerly ICOSI) reported the initiative's defeat on February 20, 1979 to member companies. Consistent with industry strategy throughout the campaign to defeat the initiative, Philip Morris sought to maintain a low profile:

Do not send this out on behalf of Philip Morris.

The Swiss people, voting in a direct referendum, today rejected by a majority of 59%, a total ban on advertising for alcohol and tobacco products.

...Commenting on the results of the vote, Dr. Raymund [Raymond] Broger, member of the upper house of the Swiss parliament and president of the Swiss advertising association said:

“The Swiss people have, once more, proclaimed their belief in the responsibility and freedom of the individual, as well as the right to information, including information through advertising. The people, following Swiss tradition, have spoken against government interference where it is neither effective nor appropriate.”<sup>166</sup>

This defeat of the advertising ban initiative was a setback for the tobacco control advocates, and it would take more than ten years before there was another the referendum on advertising of tobacco products attempted.

Just as the tobacco industry feared that advertising restrictions in Switzerland would spread to other countries, it also used its victory in Switzerland to fight similar restrictions elsewhere. For example, this quote by Raymond Broger was used again in 1981 in a letter by John T. Winebrenner, vice president & general manager of R. J. Reynolds Tobacco Company (HK) Ltd., written on behalf of seven other international and national tobacco companies, including British American Tobacco, Brown & Williamson, Japan Tobacco and Philip Morris to Geoffrey Barnes, deputy director of social services of Hong Kong to oppose smoking restrictions in enclosed places, warning labels on cigarette packs and advertising, testing and publication of cigarette smoke constituents.



In a 1979 vote in Switzerland, voters in all 23 cantons rejected a direct referendum proposing a total advertising ban on both alcohol and tobacco products. Commenting on the overwhelming defeat, Raymond Broger, a member of the Upper Parliament, said: “ The Swiss people have, once more, proclaimed their belief in the responsibility and freedom of the individual. The people, following Swiss tradition, have spoken out against Government interference when it is neither effective nor appropriate.”<sup>167</sup> p. 4

Two points are worth noticing in this statement. First, Raymond Broger’s special interest as president of the Swiss Advertising Association is hidden by not mentioning the fact. Second, the wording of the quote by Weinbrenner is almost identical to that of Covington’s memo, which illustrates how public expressions of opinion by tobacco industry allies are recycled all over the world by the tobacco industry, while the industry itself remains in the shadows.

### ***Cooperation between the Tobacco Industry and the Advertising Industry in Europe***

While the Swiss tobacco control advocates were recovering from the defeat at the ballot initiative in 1979, and it would take another decade until a second referendum would take place, the tobacco industry organized internationally to fight advertising restrictions. It worked closely with its main allies, the advertising associations, to continuously develop and implement strategies to fight current and future advertising bans in other countries. This continuing effort to fight legislation that would ban tobacco advertising put the international tobacco industry in an advantageous position compared to national tobacco control organizations.

The tobacco industry played this catalytic role in the globally coordinated fight against advertising bans without the politicians and other organizations becoming aware of it. The tobacco and advertising industries were well aware of their low credibility with governments in general, and in the matter of tobacco advertising ban in particular. An earlier report on a EAAA (European Association of Advertising Agencies) meeting with the European Committee on Tobacco Advertising in Frankfurt on January 29, 1980 by J. M. Hartogh, Vice President, Corporate Affairs & Head Quarters Marketing, PM EEC, dated January 31, 1980, to Julian Doyle, ICOSI Brussels (later INFOTAB) recounts:

I pointed out the *credibility problem* that both the tobacco industry and the advertising industry encounter with governments and other groups. I therefore suggested that the tobacco and the advertising industries could best work together by *finding an authoritative credible third party which would be willing to sponsor informational activities* to bring our common point of view across to governments, politicians and other groups.<sup>168</sup> [emphasis added]

The same report notes that the tobacco industry contributed the major financial share to efforts to fight advertising restrictions in the common plan to find an “authoritative credible third party:”

The meeting agreed with this plan, but wanted to know how this could be financed. I stated that if a sound plan is worked out, which would serve the tobacco industry’s objectives, the tobacco industry would very probably provide the necessary means and assistance.<sup>168</sup>

We do not know who was finally identified as the “authoritative credible third party.” However, INFOTAB (formerly ICOSI, International Committee on Smoking Issues, an organization founded by seven major international tobacco companies in the late 1970’s to coordinate their strategies globally against the growing anti- tobacco movement) sponsored a project called CATAC, Campaign Against Tobacco Advertising Censorship, a cooperation between the European advertising industry and the tobacco industry. A memo by T. (Tana) L. Wells, manager public affairs, corporate affairs EEMA (EFTA (European Free Trade Agreement), Eastern Europe, Middle East, Africa) for Philip Morris dated June 22, 1983, for distribution among the presidents and directors of Philip Morris EEMA, explains this worldwide cooperation:

Pursuant to the INFOTAB sponsored CATAC (Campaign Against Tobacco Advertising Censorship) project, cooperation between the European advertising industry and the tobacco industry has been formalized. At a meeting held in Brussels on June 16, 1983 a programme was launched involving a system of national coordinators from the advertising industry who will be promoting positive action to defend advertising in general but also tobacco advertising specifically.

The meeting was characterized as an important public commitment to action by the European advertising industry. *It is hoped that trans-Atlantic coordination will be the first step in the expansion of this programme of cooperation between the two industries worldwide.*

Participants at the Brussels meeting were as per the attached list. Tobacco company representatives were invited as guests and, for the most part, were members of the former INFOTAB Defense of Advertising Committee or DAC which was responsible for the early CATAC project.<sup>169</sup> [emphasis added]

That this European coalition of tobacco industry and advertising industry did succeed in a transatlantic coordination of expansion of cooperation between the two industries worldwide is illustrated by a publication by the International Advertising Association, World Headquarters in New York in 1984, entitled “Tobacco and advertising. Five arguments against censorship.” Unlike most other publications sponsored by the tobacco industry however, this one acknowledges openly the fact that the arguments in defense of advertising tobacco products were prepared by the international tobacco industry.

I.A.A. believes in the universal freedom to advertise all products which are legally traded in world markets. This belief provides the essential impetus behind our continuing campaign to encourage our members, and indeed all people engaged in the business of advertising, to be prepared at all times to act in defence of that freedom.

I.A.A. further believes that the freedom to advertise legal products is indivisible, and that restrictions applied to one group of products will inevitably lead to erosion of the freedom to advertise all products.

In lending its name to the publication of arguments in defence of advertising tobacco products prepared by the international tobacco industry, I.A.A. is showing neither fear nor favour.

While acknowledging that many people may hold personal views about smoking, I.A.A. believes that the arguments against the advertising of tobacco are so heavily publicised by those who are against smoking, that the counter-arguments which seek to justify the continuation of tobacco advertising should be equally exposed to those engaged in the business of advertising, so that they may draw their own informed conclusions.<sup>170</sup>

The background notes for national coordinators of the Campaign Against Tobacco Advertising Censorship outlines the rationale for the cooperation between European advertising

interests. As was the case during the 1979 popular referendum in Switzerland and elsewhere,<sup>60 p. 162</sup> emphasis was put on rights of individuals and businesses to exercise freedom of choice, while the issue of smoking was explicitly *not* to be the focus of the campaign in order to win the cooperation of those within the advertising association who did not look favorably upon smoking.

It is fully appreciated that not all advertising people are directly involved with the advertising of tobacco. Some may be personally less than enthusiastic about smoking. However, this initiative is *not concerned with the issue of smoking or not smoking but with the preservation of the inalienable rights of individuals and businesses to exercise freedom of choice within the law.*<sup>171 p. 1</sup> [emphasis added]

Two additional arguments mentioned besides the freedom of choice argument are also commonly used by the tobacco industry in the advertising ban debate: the “slippery slope” argument and the economic argument.

The erosion of the fight to advertise cigarettes is seen by many thinking advertising people as a significant *first step towards the restriction of other products* which may, for a variety of reasons, attract the interest of pressure groups and, through their efforts, become the preoccupation of legislators in many countries.

Few members of the public realise *the enormous contribution made by advertising to the economy of a modern free enterprise society*, and the advertising business itself has been untypically modest about its achievements. There are those who believe that the advertising business is dangerously complacent about the situation. On the other hand, the anti-advertising lobbies are constantly denouncing the shortcomings of commercial advertising, seeking always to restrict and censor its operations in the name of the common good.

Many enlightened advertising people feel that the time has come to redress the balance.<sup>171 pp. 1-2</sup> [emphasis added]

The national coordinators were key advertising professionals in each European country, identified by the secretariat of the EAAA/EAT who were asked to:

- give their time and expertise to organise campaigns against advertising censorship in their own countries.
- co-operate in a two-way information exchange with EAT.
- maintain close communication with the various sections of their (national) advertising industry.
- plan and develop long-term activity to help their own advertising community to continue to play their essential role in the economy of their country.<sup>171 p. 2</sup>

The national coordinators’ task is described as followed in the same notes:

- to motivate those whose livelihood is threatened by the growing burden of Government and Consumerist inspired activity to restrict and unfairly control advertising practices.
- firmly resist, by lobbying and other activit[i]es, those who seek to apply censorship to advertising.
- to promote a better understanding of the vital role played by advertising in the everyday affairs of the social and economic life of their country.<sup>171 p. 3</sup>

Even though the background notes had explicitly said in the introduction that the issue was not about smoking or not smoking, when recruiting allies in the respective countries of the coordinators, the tobacco manufacturers and tobacco manufacturers' associations in each country were considered the "most obvious sources from which effective allies might be recruited."<sup>171 p. 4</sup>

The tobacco industry, directly through INFOTAB and indirectly through EAT, supplied the national coordinators with "information and material for use in campaigns."<sup>171 p. 4</sup> By supplying the advertising industry with the information and political and lobbying know-how acquired by the tobacco industry for the Campaign Against Tobacco Advertising Censorship (CATAC), the tobacco industry had a channel through which to advance its position to the public, key individuals, and organizations while keeping itself behind the scenes.

CATAC material will be made available to National Coordinators and includes practical aids to mounting programmes, organising lobbies, dealing with the media, in addition to explaining the arguments in the 'right to advertise *cigarettes*' issue.

An on-going flow of information will be established by EAT/INFOTAB and communicated by EAT to keep National Coordinators abreast of developments affecting the international advertising industry, and provide an 'early warning' system on new proposed legislation or consumerist activity which might threaten to spread to other countries. It is of vital importance that this should develop from the outset into a two-way interchange of information.

'Refresher' meetings are envisaged at regular suitable intervals *to maintain enthusiasm and cross-fertilize ideas.*<sup>171 pp. 4-5</sup> [emphasis added]

The central contact points were Alastair Tempest, the secretary of the European Advertising Tripartite, and Antonietta Corti, Director of Information Services of INFOTAB, both in Brussels.<sup>171 p. 5</sup>

The main arguments that are given by the tobacco industry and advertising industry against advertising bans are politically framed by Ronald Beatson, Director-General, EAAA, in his speech given to the national coordinators for the defense of advertising and advertising of tobacco products at the Hilton Hotel in Brussels on June 16, 1983, entitled "the importance of defending advertising."

There are powerful forces at work that would destroy our market economies by placing the supply of goods and services under state control. Having spent the first three days of this month in Leningrad, I am still vividly aware of the unsmiling misery of consumers who have nothing much to consume but generics because the men with the guns, the warrior classes of the new Sparta, take all, and even they have to make do with those dreadful-looking air and tobacco tubes. They have no choice but Hobson's. As Shakespeare put it: 'There's small choice in rotten apples'.

Freedom is a *sine qua non* in our market economy, where the supply of money, but not the supply of goods, is controlled by the state.

...

Attacks on free enterprise may be blatantly *Marxist*, or they may be more subtle: insidiously exploiting the genuine concerns of consumerist movements, addressing highly emotive issues like advertising to children in order to *stab at the soft under-belly of our market economy*. Whatever its form, an attack on free

enterprise is an *attack on freedom of speech and freedom of choice*. ‘*Leftist*’ politicians (if I may use a definition based on the seating arrangements in the French National Assembly) exploit the notion of majority rule by promising the greatest Utopia to the greatest number. To finance delivery of Utopia, they bleed the private sector. To justify this vampirism they accuse their victims of being socially irresponsible, or physically dangerous. The victims’ activities are restricted or regulated by the People’s Nursemaids in the name of consumer protection’ [sic], but the victim is kept alive as a vital source of blood. *Consumerist movements, usually self-appointed, are the assistant nannies of our society, chiding us for the way we spend our money and our time, protecting us from our silly selves*. By and large, consumerists seem to think that what is good for business is bad for consumers, and so they tilt like Don Quixote at the mills.

*Many Greens are Red*, but this does not mean that the consumerist people are simply the longa manus of the Communist Party. They are *Utopian idealists*, missionaries manqués [sic], advocating the advantages to consumers of a free market economy, while opposing the free enterprise system that produces these advantages.

...At EAAA we do everything possible to advocate and promote free enterprise, freedom of speech, freedom of choice.

René Descartes said ‘I am unlike God in every way except for my capacity to make decisions’. Lenin, on the other hand, described men as ‘insects’. That’s about the sum of it: freedom to advocate, choose and decide, or a numbing treadmill of coercion and constraint.<sup>172 p.2, 3, 4</sup> [emphasis added]

Consistent with the tobacco industry’s central strategy of remaining out of the public spotlight, Beatson explicitly appeals to the advertisers not to make a special case in “discriminating” against so-called “sensitive” products, such as tobacco, alcohol, children’s products, patent medicines,<sup>171 p. 3</sup> also called “critical” products.<sup>168</sup>

Let us not undermine our common cause by pointing sectarian fingers at other product categories, assuming a Pharisaic stance about other so-called ‘sensitive’ products. From those narrow corridors of the mind where Savonarola and the Puritans once stalked, it is easy to summon up charges against practically any product. But accusing others [e.g., the tobacco industry] not only jeopardizes our own position, it also misses the point; for we are not professionally concerned with the claimed hazards of products on legal sale.

Our members’ job is to produce persuasive, cost-effective, successful advertising, and our job as a Trade Association is to defend the interests of advertising in general in Europe, and of advertising agencies in particular. We do not attempt to do this alone, but in collaboration with our advertiser and media partners in the European Advertising Tripartite. ...<sup>172 p. 5</sup>

This continuing effort and cooperation between the tobacco industry and advertising industry laid the groundwork for the defeat of a second proposed total advertising ban in Switzerland in 1993.

### **1993 Referendum on Tobacco and Alcohol Advertising Ban (Zwilling’s initiative)**

The tobacco industry was careful not to be provocative in advertising by adhering to the existing Food Law, which regulates testing and advertising of tobacco products. It tried to influence the revision of the Food Law to its favor. A draft of a Philip Morris Corporate Affairs plan for 1987 suggests:

Lead the industry in the revision of the Food Law and particularly the regulations to implement this law. While the seven member Swiss Federal Council will decide the final wording of the regulations, the Federal Commission on Tobacco will make initial proposals. The national [Federal] Public Health Office (OFSP) will seek to influence the Commission's recommendations by advocating tax increases, restrictions on marketing and sales and maximum limits for these constituents, and harsher warning labels.

As this Federal Commission begins work in 1988, work in close cooperation with the members representing the ASFC, growers, trade and advertisers to ensure that our viewpoint is well documented and is being communicated persuasively. Enlist the support of the Tobacco Caucus in Parliament [see further below] to influence government officials who are commission members.<sup>67 bates 2501254719</sup>

In this effort, Philip Morris saw the newly formed Federal Tobacco Commission as its ally:

*Make the best use of all available communication means permitted by the current Food Law, but avoid being too provocative. Lead the industry in influencing favourably its revision.*

A careful and flexible interpretation of Convention and Food Law, mainly on "jurisprudence," has always been the frame for selecting advertising and promotional activities. We have tried not to be too provocative.

In view of the Food Law revision, *the Tobacco Industry has now a new partner: the Federal Tobacco Commission.*[Philip Morris, 1987 #62]

Philip Morris' confidence was based on the fact that, unlike the Federal Alcohol Commission, which had no representative of the alcohol industry, the Federal Tobacco Commission included several representatives/allies of the tobacco industry. Therefore, it comes as no surprise that the Federal Council, frustrated by the inefficiency of the commission, did not renew its mandate for the Federal Tobacco Commission's in 1996:

...The ASFC has been able to reestablish a true dialogue with the Health authorities. They have put all their efforts on the constitution of the Federal Commission on Tobacco. Though its composition is not balanced, tobacco circles are represented. It should be remembered that the Federal Commission on Alcohol does not include any representation of the alcohol industry, but antis only.[Philip Morris, 1987 #62]

In 1998 however, a new federal commission was formed to advise the federal government on issues of tobacco prevention. This time the commission did not have any tobacco industry representatives:

The Federal Council has formed a new Federal Commission for Tobacco Prevention. It replaces the former Federal Commission for Tobacco Issues – a never functioning board, because consistently blocked by representatives of the tobacco lobby.<sup>173</sup>

On April 12, 1988, 9 years after the defeat of the first initiative for a total advertising ban on alcohol and tobacco products at a referendum, a "wide coalition of anti-tobacco/alcohol groups, put together under the umbrella of the 'Swiss Association for the Prevention of Problems Linked to Alcohol and Tobacco,'" <sup>174 bates 2046312820</sup> initiated a new proposal for a total advertising ban on alcohol and tobacco products, called the "twin initiative." The referendum on the tobacco and alcohol advertising bans were expected to take place late in 1993 or early in 1994.

As part of its effort to oppose advertising restrictions, the tobacco and advertising industries organized a “public hearing” to generate negative press for the idea of advertising restrictions. Ronald Beatson, director general of the European Association of Advertising Agencies, subsequently participated in a hearing organized jointly by the Union of Swiss Advertising Agencies (Bund Schweizerischer Werbeagenturen, BSW) and the International Advertising Association in Hotel Savoy, Zurich, in June 1991, Beatson was quoted as saying that restrictive practices of some member states of the European Community would destroy the market. The press had been invited to this hearing entitled “Can the advertising industry defend itself against the EC trend to prohibit advertising?”<sup>175</sup>

The tobacco industry succeeded in maintaining a low profile. The article in the newspaper *Basler Zeitung* which reported on the meeting only mentioned the word tobacco once as an example of an advertising ban. Even when Volker Nickel, CEO and speaker of the German Advertising Association, was quoted in the same newspaper article saying that “neutral studies had sufficiently proven that addictive behavior could not be fought through advertising bans,” any mention of the word tobacco or nicotine addiction was avoided.<sup>175</sup>

The following memo from Andras Fehervary,<sup>174</sup> manager government relations and public affairs, Philip Morris Corporate Affairs in Budapest, to Anne Okoniewski, coordinator of research analysis, public affairs, Philip Morris International in New York, summarizes the “Swiss Ad Ban Case Story,” written by JPP (most likely Jean-Pierre Paschoud, Director, Industry Policy, Philip Morris EEMA). The case study starts with an overview of the procedure for popular initiatives, then talks about the organizations that favor advertising ban. It ascribes the rising pressure on member nations to WHO’s tobacco prevention campaigns. Significantly, Jean-Pierre Paschoud talks about the ineffectiveness of the Swiss Federal Tobacco Commission, due to the representation of the tobacco industry and its allies.

This private recognition of the industry’s influence contrasts with its public position that it had little influence on the Commission. Less than five years earlier, Jean-Claude Bardy, director of the Swiss Association of Cigarette Manufacturers had complained in a letter to the chief editor of the largest daily quality newspaper in Switzerland, *Tages-Anzeiger*, about an article in which the journalist had said that the tobacco industry had a “strong representation” within the Swiss Federal Tobacco Commission. Bardy said in the letter that the industry was represented “only” by six people, of which only one from the tobacco industry, as opposed to 12 of tobacco control advocates.<sup>176</sup>

Health prevention and care is a competence of each canton. Thus, a large number of public and/or private organizations are directing (involved in) the anti-tobacco fight:

The Federal Health Office, reporting to the Ministry of the Interior [Department of Internal Affairs], is actually driving and coordinating the activities; the office is *in theory* assisted by a Federal Tobacco Commission whose role is to issue plans and recommendations. But *effectiveness of the commission is close to nil, probably due to the fact that the industry and its allies [sic], in spite of their relative underrepresentation (4 out of 15 members) succeeded in blocking or delaying the proposals;*<sup>174</sup> [emphasis added]

The players the tobacco industry considered “major players of the anti-tobacco game,”<sup>174</sup> and what they concentrate on, is listed in the following section of the memo.

medical prevention institutes of the major universities (Zurich, Bern, Lausanne); national private groups such as AT (Association Tabagisme), SAN (Swiss Action Non-Smokers), Cancer and Tuberculosis Associations, FMH (Swiss Medical Association), ISPA (Swiss Institute for Alcohol and Drug Prevention), and the Swiss Foundation for Health Promotion.

The anti-tobacco lobby is mainly concentrating its activities on the ETS issue (public smoking, smoking at the workplace) and marketing/ad bans. They are currently trying to set up a global [federal] tobacco prevention plan, including a plan for increased taxation.<sup>174 bates 2046312819</sup>

The top ten advertisers in Switzerland in 1991 are listed in the same document, among which the tobacco industry only takes the 8<sup>th</sup> place with 76 million Swiss francs (approximately 50 million US dollars), corresponding to 6.5% of the sum of expenditures of the top ten advertisers (in the order of expenditure: “cars, trade/distribution, newspaper, banks/finance, house/accommodation, clothing, magazines, tobacco, insurance, travel/hotel trade”).<sup>174 bates 2046312820</sup>

The document also acknowledges that tobacco advertising and promotion is virtually unregulated in Switzerland.

#### 1.4 Existing legal and voluntary restrictions

Tobacco and alcohol advertising on TV and radio are forbidden by law since 1964.

Advertising aimed at minors (below age 20) is prohibited since 1978 by the food-stuff law, which includes the distribution of samples and gifts to youngsters and branding on sportswear, sport devices and cars/bikes. This applies also to tobacco products.

In the early 1970s, the National Manufacturers Association (NMA) set up a code of voluntary restrictions including quantitative limitations (size and number of ads, number of samples and gifts to be given to consumer, etc.) and qualitative measures (no use of popular figures especially appealing to the young, no mention of the S&H [smoking and health] issue (?) [sic], etc.)

*Despite these legal or voluntary restrictions, tobacco advertising and promotion can essentially be considered as free in Switzerland.*<sup>174 bates 2046312820</sup> [emphasis added]

The text of the “twin initiatives” is described in the memo as follows, with the alcohol advertising ban initiative having a very similar wording:

Popular initiative for the prevention of problems linked to tobacco

At least one percent of the revenues from the taxation of tobacco has to be used in conjunction with the cantons, for the prevention of tobacco related diseases.

2. Advertising for tobacco products and their brands is prohibited. This is the same for all services and goods that look like or (lead one to) make think of them as to word, picture, or sound. Federal legislation can allow limited exceptions in special cases.<sup>174 bates 2046312821</sup>

The memo goes on to describe the opposition that the tobacco industry and the advertising industry had been able to build up during the years between the two efforts to impose restrictions on advertising:



As soon as the launch of the “twin initiative” was made public in the beginning of 1988, the tobacco industry and the advertising branch decided to gather all concerned parties in an “Information Committee,” in order to monitor the issue and set up the grounds for the future fight. Around 30 industries and associations accepted their proposal to begin meeting regularly under the chairmanship of the Swiss Advertising Association. Those represented were:

Tobacco, beer, wine, liquors, advertising agencies, advertisers, media agencies, outdoor (advertising) companies, cinemas, publishers, printers, trade, department stores, HORECA – the hotel and restaurant association, leading economic organizations, other associations, clubs, etc.

The committee met between three and [f]our times a year until the popular vote took place on November 29, 1993 [sic]. These regular meetings unquestionably strengthened the coalition, as every member was informed at each step of the issue, and was given the opportunity to provide their input.

Clearly, such a large committee is not an appropriate vehicle for the effective management of the campaign against the initiatives. A smaller “Project Group” composed of representatives of the most threatened industries and branches was therefore set up in the beginning of 1990. Those represented were:

The NMA [national manufacturer association], PM [Philip Morris], beer, wine, liquors, advertising agencies, publishers, outdoor advertising companies, cinema, HORECA [Hotel, Restaurant, Café Association].

The tasks of the “Project Group” were:

to define the argument action platform against ad bans;  
develop the communications tools, and in particular

- media campaigns
- information print material
- non-media activities
- PM activities
- lobbying activities

direct the implementation of all activities  
monitor the activities of the initiative committee  
run public opinion polls.

In Switzerland, all major votation campaigns are implemented by one of the key politico/economic top associations. Therefore, the coalition decided to give the lead of the “Project Group” to USAM (Union Suisse des Arts et Métiers [Métiers]), whose main strength was their strong organizational network at the cantonal level, in all cantons. As a result, an experienced secretary of USAM chaired the “Project Group’s” meetings.

Finally, the fighting structure against the initiative was compl[e]ted by the hiring of one of the best PR agencies in political matters: Jaeggi Communications, Bern. It is worthwhile noting that the agency’s owner and manager, *Dr. Dieter Jaeggi*, was simultaneously one of the industry’s allies in the Federal Tobacco Commission. In addition, Jaeggi Communications had already been working for Philip Morris SA (Balair ads and tolerance/courtesy campaign). As a result, this close relationship made directing and controlling the campaign much easier.<sup>174 bates 2046312821\_2822</sup>

The last sections of the “story” reproduced in the memo by Andras Fehervary to Anne Okoniewski shows the prominence of Philip Morris within the tobacco industry and within the anti-advertising ban organization. They also summarize the main strategies used in fighting the advertising bans, including the issue of credibility of the tobacco and alcohol industry, necessitating a background operation of the tobacco and alcohol industry, the use of existing

lobbying networks, and the taking advantage of the relationship with the federal administration, government officials, Parliament and political parties:

#### 4. Industry and PM fighting structure

Seven companies are members of the Swiss NMA (CISC) – Communauto [Communauté] de l'Industrie Suisse de la Cigarette): Philip Morris, BAT, Burrus, (Swiss owned), RJR [RJ Reynolds], Sullana, Rinsoz & Ormond, Reemtsma. *President of the CISC is Dr. E. Oehler, an influential Christian-Democratic MP* [see also SAPALDIA study]. Mr. J.C. Bardy, director, manages the administrative office in Fribourg, with a staff of 10 people including a PR manager and a scientific attaché.

Representatives of the companies generally meet once a month, where industry issues a[r]e discussed and actions framed for dec[i]sion in the frame of the General Assembly.

Preparatory work is done by a PR Commission, made up of representatives of the five big companies:

*Philip Morris (2-3), BAT (1), Burrus (1), RJR (1), and Sullana (1).*

The Pr [sic] Commission issues recommendations to the General Assembly, with some decision power in cases of urgency/importance.

*Through its three person Corporate Affairs staff, PM provides leadership to the industry. Most of the issues are handled by PM and proposals for action are then passed on to the NMA. In most cases, the other manufacturers follow PM recommendations as they do not dispute of their own Corporate Affairs manpower.*

#### 5. Strategies

From the beginning, it was clear that the best chance for fighting successfully a tobacco ad-ban was to *keep the issue as part of the overall problem of freedom of speech*. On the other hand, alcohol manufacturers, the advertising branch and publishers realized rapidly that they could *benefit from the tobacco industry's resources and expertise*. Thus all parties decided to build up a common front, with one common campaign. The strong coalition was maintained throughout the long political process, with minor attempts by outdoor companies and advertising agencies to go their own way, which were successfully contained or utilized in the scope of the overall campaign objectives.

The second strategical [sic] rule was to *keep tobacco and alcohol industries in the background*. In other words, the decision was made to *use the advertising branch, publishers and sponsored events as spearheads*. This principle allowed the coalition to *avoid entering health issues and to keep the debate at the level of freedom of speech*.

Thirdly, it was desired to *use pro-active behavior at all phases of political treatment of the initiative with the Federal Council and Parliament to prevent undesired or unacceptable political compromise*. This meant full use of existing lobbying networks and the consolidation of relationship with the federal administration, government officials, Parliament and political parties.<sup>174 bates 2046312823</sup> [emphasis added]

The tobacco industry always tries to keep health issue out of the debate.<sup>60 p. 12</sup>

As an alternative to the popular initiative, the Swiss federal government suggested revising article 13 of the food law, which regulates tobacco products in Switzerland.<sup>65 p. 11</sup> This revision was heavily influenced by the tobacco industry, as can be seen from a report written by SGC (most likely Stig Carlson, Director Corporate Affairs, Philip Morris EEMA) on August 9, 1993.

The Swiss Federal Council was driven to redraft a softer counter-project to the ad ban initiative after the consultation phase.

*The parliament finally accepted the text supported by the industry for art. 13 of the revised food law.*

A coalition against ad bans was kept united and active.

A two year national pre-campaign started (posters and press) in June under the umbrella of the “Association against further ad bans” in order to influence political circles and prepare the Swiss population to [sic] the votation political campaign in 1994.

The Advertising self limitation code was signed by all industry members and the “Swiss Commission for fair practices in advertising.”

As a result of our communication strategies to journalists on the ad ban issue, press reporting was nearly 100% positive.[Carlson), 1993 #185 p. 2] [emphasis added]

The Federal Council’s (the Swiss federal government) second draft of counter proposal was much more favorable to the tobacco industry due to a strong opposition by what the tobacco industry calls “the economy” during the consultation on the first draft. This success (from the industry’s point of view) is summarized in a memo by Georges Diserens, Vice President Switzerland, Scandinavia/Finland, Duty Free, Philip Morris EEMA, to Andreas Gembler, President Philip Morris EEMA region, dated January 27, 1992.

Federal Council decided on the indirect counter-project to be submitted to Parliament by end February. Compared to the first draft put last year in consultation, *the new proposal shows that Federal Council has taken a step backward, due to the strong opposition expressed by the economy.* The main differences [all more favorable to the tobacco industry] are the following:

- tobacco ads are allowed in newspapers and magazines, as long as the content is directly linked to products and their characteristics;
- sponsoring is permitted under the company name, with mention of the brands sold by the firm;
- advertising for diversification brands is allowed, as long as it does not promote sales of tobacco goods.
- Tobacco advertising is allowed in/at POS [points of sale], (German version says “at” whilst French translation says “in”), which are directly linked to tobacco products, if it is not targeted towards young people.
- Sampling to a “determined” group of people could be allowed.

First reaction of industry and allies is that the new proposal is not acceptable, because being still based on a total ban with some exceptions. For the industry, it means in particular a prohibition of image advertising. The advertising branch cannot accept the discrimination between press and outdoor/cinema which would suffer a total ban. Articles published today in the major newspapers express an overall opposition of print media who consider the project is still going to[o] far.

Dr. Oehler is member of the Commission for the LDA [most likely foodstuff law] revision.

Debates in Parliament which could start in spring will give us and our allies good opportunities for extracting further concessions, as authorities seem to be receptive to concerns of economic circles and coalition against ad-bans is keeping its unity.<sup>177</sup>

The tobacco industry’s objective to “keep an acceptable level of freedom of speech,”<sup>65 p.</sup>  
<sup>11</sup> its strategy was as outlined in the Philip Morris long range plan, “Switzerland 1993 – 1995”:

We will develop sales and marketing strategy and action plans in separate sections. Our Corporate affairs strategy is to fight both the initiative and the Federal counter-project by offering a reasonable alternative to authorities and Swiss voters through the voluntary advertising restriction agreement which came into force on September 1, 1992.<sup>65 p. 11</sup>

The specific strategies employed by the tobacco industry to fight the federal council's counter-project are also listed in the long range plan 1993 – 1995 for Switzerland by Philip Morris EEMA.

Action plan:

Our plan, together with our allies, is to:

- Maintain common front of manufacturers
- Drive and maintain current wide coalition opposed to ad-bans (media, economy, sport, culture, etc.)
- Continues running the pre-campaign under the umbrella of the "Association against further ad-bans"
- Pursue promoting favourable articles in media, in particular during debate in parliament.
- Lobby MPs in favour of a reasonable solution during debate in parliament.
- Continues lobbying of third parties and dissemination of documentation.
- Evaluate pros and cons of initiating a referendum against Art. 13. or a parliamentary counter-project.<sup>65 p. 12</sup>

As for the popular initiative itself, the action plan was as follows:

This action plan complements the counter-project action plan. Given the time frame, our strategy is to prepare the ground for the future votation and to:

- Continue using Jaeggi's agency to prepare communication tools and campaign.
- Develop a campaign against the initiative and have it ready by end 1993.
- Go public when opportunities arise.
- Continue sustaining the "Association against further ad-bans".
- Support regional media.
- Monitor evolution of public opinion through telephone tracking studies.<sup>65 p. 13</sup>

A public opinion poll done by the tobacco industry at the end of October 1993, just a month before the referendum on advertising ban showed that a substantial plurality of Swiss voters favored an advertising ban, 41.3% in favor versus 30.0% against, with 23.8% undecided.<sup>21 bates 2500107764</sup>

While these results still reflected support for the advertising restrictions, they did indicate that the tobacco industry's ongoing campaign over the preceding years had been effective. Only four years earlier, in 1989, a comprehensive opinion poll undertaken by Philip Morris International in 10 European countries, including Switzerland had shown that 57% strongly agreed that all cigarette advertising should be banned.<sup>23 bates 2500147506</sup>

The reason for a successful campaign thus far was seen by Philip Morris as follows:

The results achieved until now are due to a strong coalition of allies, comprising the advertising and alcohol industries and supported by all the main economic associations and the Press; to a *preliminary campaign sensitizing the general public to the issue of free choice, and to the reinforcement of the industry Code of Conduct.*<sup>21 bates 2500107761</sup> [emphasis added]

Besides the efforts undertaken to influence people's and the media's opinion in their favor, the tobacco industry also strongly lobbied the politicians and others to be successful in fighting the advertising ban initiative.

During October and November [1993, the month the vote would take place] our efforts to swing public opinion and defeat these initiatives have been developed along two axes:

- The first is a political campaign aimed at the general public using all available media and supported in the field by 150 Members of Parliament and local committees in every canton.
- The second axis is a grassroots mobilization program, emphasizing the importance of taking part in the vote. More than 5,000 trade partners, suppliers, sponsored organizations and employees have been contacted by direct mail.[# **need cite**]

As elsewhere, the industry used its voluntary code of advertising as a shield against government regulation. Several times, the industry code of conduct was mentioned by the tobacco industry as one of the main strategic ingredients in fighting the popular initiative on tobacco advertising ban. The 1993-1995 three year plan, EEMA region, under key corporate issues addressing legal, legislative and regulatory challenges, it says:

Strategies: Fight advertising restrictions/bans in all instances.

Action plans/milestones: Switzerland: Lobbying activities and mass advertising in favor of the "industry voluntary code"<sup>178 bates 2500108245</sup>

The role of the industry code as a defense against regulation is described in a memo written by Georges Diserens, Vice President Switzerland, Scandinavia/Finland, Duty Free, Philip Morris EEMA to Andreas Gembler, President Philip Morris EEMA on June 19, 1992, five months before the referendum on tobacco and alcohol advertising ban would take place:

#### Industry Advertising Self Limitation Code

After long discussions, all members of the ASFC accepted a self-limitation code in an extraordinary meeting held on June 16. *The draft text presented by PM in the fall 1991 was actually accepted by our competitors*, with some minor changes. The final French and German texts are being fine-tuned by the ASFC and will be available for signature next week. Key self-limitations are the following:

- no models under 25 and no provocative scenes suggesting social, sexual or athletic success in the ads;
- one half-page ad only by manufacturer in dailies;
- one full page ad by brand in magazines (max. 2 brands by manufacturer in the same issue);
- no ads on the fourth cover page of magazines;
- no cinema commercials before 8 p.m. and two tobacco commercials only in the same program;
- no posters in the surroundings of schools (200 meters);
- no permanent outdoor material which is not linked to POS [points of sale] (HORECA excl.)
- prohibition of all semi-permanent and temporary outdoor material, except ashtrays;
- no advertising in amusement arcades;
- no advertising on outdoor vending machines;
- no sponsoring of events attracting mainly youngsters;
- no stands in fairs/exhibitions, except those linked to an exhibition sponsored by a manufacturer (for ex. motor shows);
- no promotional activities in shopping-center lobbies;
- no gifts susceptible of being used by kids;

- no T-shirts given or sold to youngsters;
- no public sampling, except samples given to adults at POS and bars/cafes/restaurants.

The code will be put in force on Sept. 1, 1992 [approximately a year before the referendum would take place on November 28, 1993], with a transitory period until January 1, 1993 for limitations which cannot be implemented rapidly.

The major aim of the code is a reinforcement of youth protection measures, in view of the debates in parliament on the initiative, which will start on Sept. 3, 1992. *The objectives of industry and allies are firstly to convince MPs that there is no need for a counter-project and that youth protection can be better achieved through self-regulation within the tobacco and advertising industries, and secondly to push voters to reject the initiative in 1994 because of its uselessness.*

*In order to get maximum credibility, the code will be countersigned by "Publicite Suisse" and its enforcement controlled by the "Commission suisse pour la loyauté en publicité," which is composed of representatives of advisers, agencies, medias and consumers.*  
*We have image advertising in all media.*<sup>179</sup> pp. 1-2 [emphasis added]

This tobacco industry self-limitation agreement was not a *de novo* invention of the Swiss tobacco industry, but a modified version of the Philip Morris International cigarette marketing code.<sup>180</sup>

A memo by Jean-Pierre Paschoud, Director Industry Policy, FTR/Philip Morris EEMA to Matthew Winokur, Director Philip Morris Worldwide Regulatory Affairs, Europe, how easily the tobacco industry navigated through the political landscape with very little resistance from the tobacco control advocates. This is a good example of missed opportunities to challenge tobacco industry's claims and tactics:

Further to your note of April 6 addressed to Stig Carlson [Director Corporate Affairs, Philip Morris EEMA], please find enclosed the English translation of the Swiss industry's self-limitation agreement enforced on September 1<sup>st</sup> 1992.

As you will see, the skeleton of this agreement is the PMI Code, completed by tailor-made measures.

Enforcement of the code has not created any major problem. Up-to-now, the Swiss Commission for fair practices in advertising has only received two minor complaints which have been rejected.

Made public through a press conference, the agreement got wide media coverage and positive comments. *Antis did not really challenge it.*<sup>181</sup> [emphasis added]

A handwritten note by Matthew Winokur on the memo adds:

FYI – good use of PMI Code...<sup>181</sup>

Less than three years after the referendum on advertising ban, this advertising code was criticized by a letter to the editor of the newspaper *L'Express* from Neuchatel, Switzerland. The writer complained about the outdoor cigarette advertising close to schools which was clearly against the tobacco industry advertising code (the writer knew the industry code).<sup>182</sup> This also showed how ineffective the control by a presumably "neutral body" was in reinforcing the code.

Journalists were regularly "informed" by the tobacco industry on advertising bans:

#### Editors information sessions on ad-bans

Two briefing sessions aimed at journalists have been organized in Zurich this week by USAM, in collaboration with "Publicite Suisse." Approx. 30 key chief-editors and editors attended presentations on the ad-ban issue, given in particular by Prof. Bergler [Head of the Institute of Psychology at Bonn University, Germany]<sup>170</sup> and Volker Nickel [CEO and speaker of the German Advertising Association]<sup>175</sup>. Today, another session is being held at Curti-Medien, gathering 39 participants. Similar briefings are planned with Ringier in the fall.<sup>179 p. 2</sup>

These sessions were repeated at least once; on February 17, 1993, at least three newspaper articles appeared in three different newspapers describing the economic hardship the advertising industry was in and how this situation would worsen with an advertising ban on tobacco and alcohol products. "Werbeagenturen spüren die Rezession" (Advertising agencies feel the economic recession),<sup>183</sup> "Les publicitaires défendent la cigarette. Les recettes des agences de pub ont faiblement progressé en 1992. Leur association craint les initiatives sur l'interdiction de la publicité pour le tabac et l'alcool" (The income of the ad agencies have increased only slightly in 1992. Their association fears the initiatives on the advertising bans on tobacco and alcohol),<sup>184</sup> or "La pub pour le tabac et l'alcool en baisse en 1992. Les agences dénoncent l'hypocrisie ambiante" (Downward trend of tobacco and alcohol advertising in 1992. The agencies denounce the surrounding hypocrisy).<sup>185</sup> No opinion of public health professionals were presented in any of the three articles to contest the opinions of the tobacco and advertising industry.

During the last month before the referendum took place, several articles appeared in *Sonntagsblick*, a popular newspaper that has the largest circulation in Switzerland, which clearly expressed tobacco industry's views. For example, on November 11, 1993, three weeks before the referendum, an article was published in *Sonntagsblick* that discussed tobacco production at a R.J. Reynolds' cigarette factory in Switzerland. This article noted that "300 employees have been producing 24 million cigarettes daily for 22 years," or "200 tons of fresh, coarsely cut tobacco are stored in fully air conditioned halls ... not simply tobacco, ... , but these are tobacco blends that have been puzzled out in years of research work. In 'Camel' alone there are 21 different types from all over the world, which ultimately make up the aroma. Swiss tobacco is also added to the production." Helmuth G. Fritsch, director of R. J. Reynolds is quoted saying:

Kurzfristig würde sich ein Ja bei uns nicht auf die Arbeitsplätze in der Produktion auswirken. Andere Funktionen in Verkauf, Promotion und Marketing könnten jedoch schon sehr rasch in Frage gestellt sein.

Das von den Initianten angestrebte totale Werbeverbot ... würde den Markt blockieren, weil wir nicht mehr mit den Konsumenten kommunizieren könnten.

Ein verbessertes Produkt könnte dem potentiellen Kunden nicht mehr bekannt gemacht werden. Die Motivation zur Forschung wäre damit weg vom Tisch, die Raucher würden nicht weniger, sondern stärkeren Tabak rauchen.

[Das Werbeverbot] stellt eine weitere Bevormundung des Bürgers durch den Staat dar.

[In the short run, a yes [to the advertising ban on tobacco products] would not influence employment in our production. Other sectors, such as sales, promotion, and marketing may however quickly be compromised.

The target of the initiative, a total advertising ban [on tobacco products] ... would block the market, because we could not communicate with the consumer any more.

An improved product could not be made known to the potential customer. The motivation for research would be gone, the smokers would not smoke less, but stronger tobacco.

[The advertising ban] is another tutelage of the citizen by the state].<sup>186</sup>

One week later, on November 14, 1993, or two weeks before the referendum, another article appeared in *Sonntagsblick* that dealt with the problem of sponsorship by the tobacco industry. Several advertising agencies and organizers of international music and film festivals in Switzerland were interviewed and quoted. Again, the opinion was quite uniform, as the title of the newspaper article succinctly expressed:

So gefährdet ein Ja zur Zwillinginitiative Festivals und Rockkonzerte. Wer Kultur sagt, muss auch Sponsoring sagen.

[This is how a yes to the twin initiative [for a total ban on alcohol and tobacco advertising] puts at risk festivals and rock concerts. Who says culture must also say sponsoring.]<sup>187</sup>

The article was accompanied by information on the referendum on advertising ban on alcohol and tobacco products which would take place on November 28, 1993. The political parties and organizations for the ad ban were the socialist party (SP) as the only major traditional party represented in the executive, two much smaller parties in the political center to right (LDU, EVP), one very small nationalist party (SD), and the ecologist party (Grüne), as well as Youth, Physician, and Health organizations. The three other major traditional political parties in the political center to right (FDP, SVP, CVP) however, and the trade were against the initiative.<sup>187</sup>

The Swiss people were bombarded during the pre-referendum campaign by industry sponsored messages through large posters and matchboxes that targeted Swiss people's traditional strong aversion against state regulations and fear of losing popular events sponsored by the tobacco industry. Following are examples of texts used on posters from an internal Philip Morris presentation dated November 17, 1993, 11 days before the referendum (Fig. 18, 19, 20).

Answer no to the two initiatives with a headline Verbotitis meaning prohibition disease.  
No to being bossed around.

Open-air cinema closed due to advertising ban.

As part of our field work we are also distributing 1.3 million matchboxes which convey messages on the threats of an advertising ban.<sup>21</sup> bates 2500107768-7775

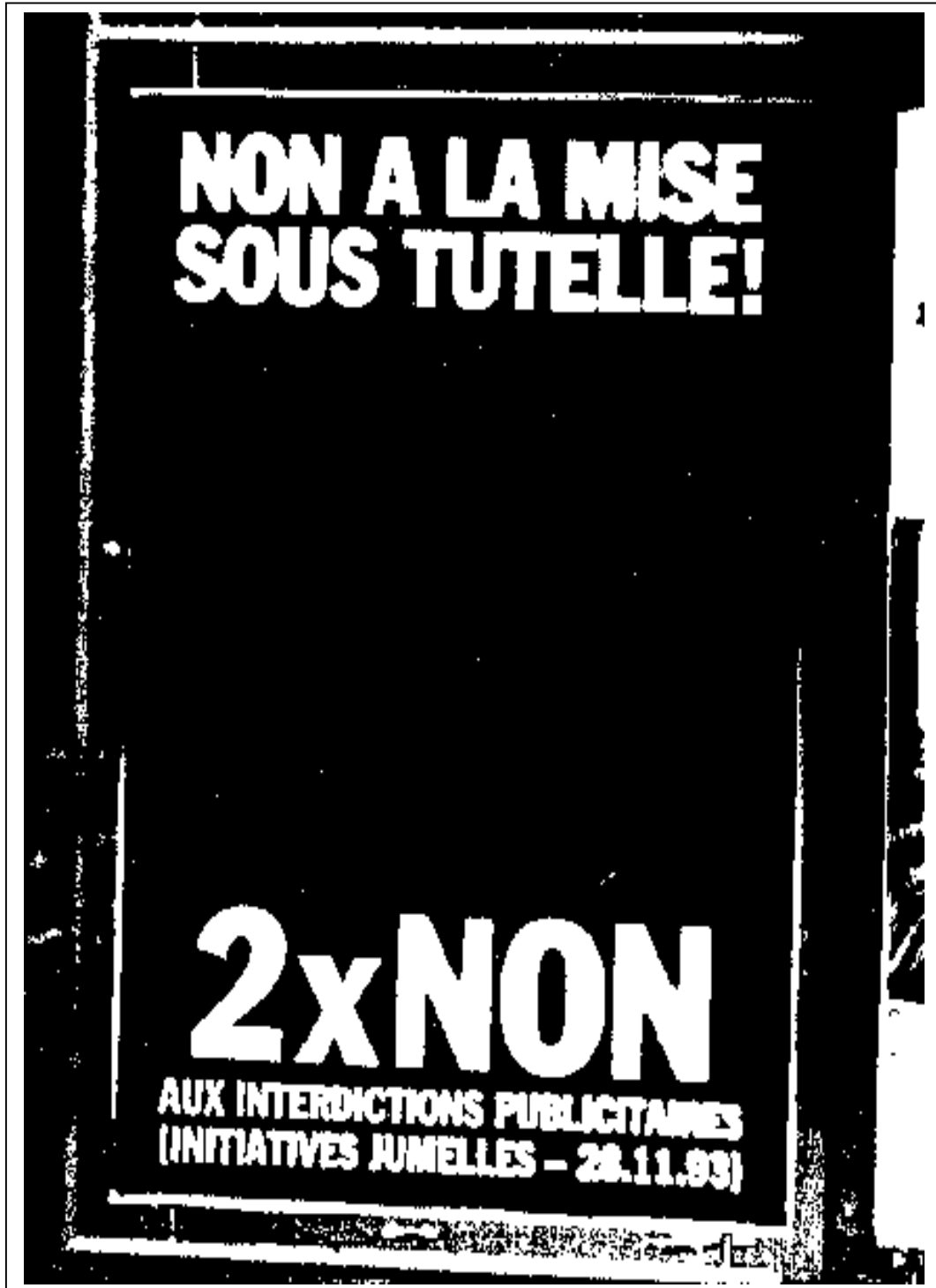


Fig. 18



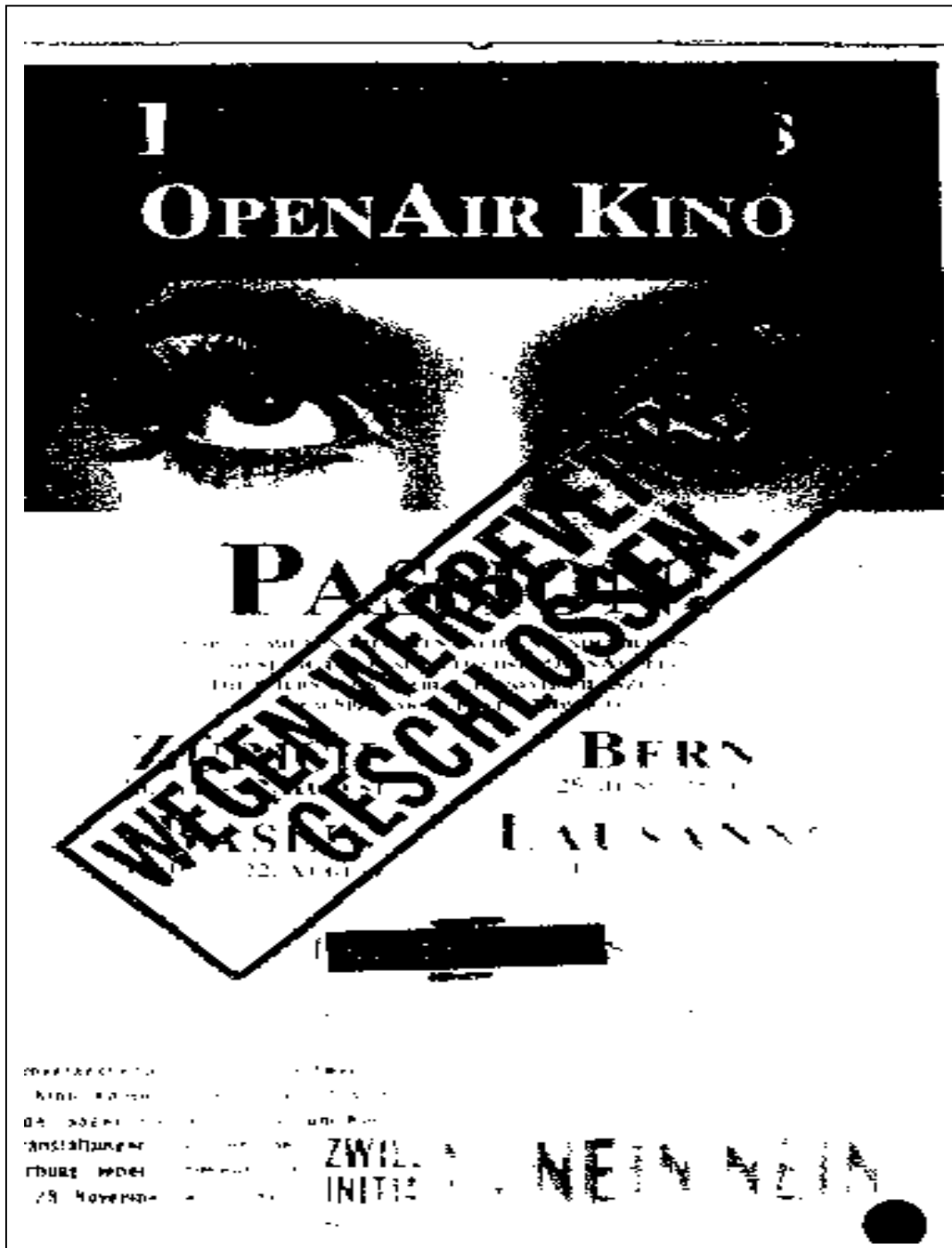
Here are some examples of the ads that are being published during the referendum campaigns. The first one says: Answer No to the two initiatives with a headline Verbotitis meaning prohibition disease.

Fig. 19



The second one says: No to being bossed around.

Fig. 20



The third one highlights the impact of a ban on sponsored events such as the Philip Morris Open Air Cinema.

As in the past, the tobacco industry's large and sophisticated campaign overwhelmed the public health forces and the tobacco industry and its allies defeated the initiative in the November 28 vote by a majority of 74.4% for the tobacco advertising ban (74.7% for alcohol). The industry achieved this victory despite the fact that, as mentioned before, pre-referendum polls had shown that, overall and in the German part of Switzerland, which makes up more than 60% of the country's population, a majority of people had been in favor of the total ban on tobacco advertising, namely 57% strongly in favor of an advertising ban in 1989 and 41% for versus 30% against an advertising ban in 1993, only a few weeks before the referendum.<sup>21, 23</sup>

On November 29, 1993, the European Association of Advertising Agencies sent out a press release which read:

Bureaucrats who are inspired more by the nursemaid theories of a command society than by common sense views expressed through free democratic votes are today fuming at the results of yesterday's referendum in Switzerland on alcohol and tobacco advertising.

But we are rejoicing.

A proposal to ban advertising for alcoholic beverages and tobacco products was roundly defeated by three-quarters of the voters in yesterday's referendum in Switzerland.

*This is a major victory for the freedom of commercial speech for all products on legal sale, and a fine example for all other States in Europe.*<sup>188</sup> [emphasis added]

Cornuz, et. al.<sup>189</sup> analyzed the pre-referendum campaign and the result of the referendum in a paper published in *Tobacco Control* in 1996 written before the industry documents became available and concluded:

This case study is an example of an unbalanced battle, because of the strong alliance among the tobacco industry (high profits in a market of ongoing expansion), the state (tax revenues), the media (direct advertising), and sports and cultural activities' planners (indirect advertising). The advocates of the ban were unable to effectively inform Swiss citizens about the hidden goals of cigarette advertising. Thus, without knowledge of counter-arguments to the mostly fallacious claims made by the opponents, the Swiss people were unable to make an informed decision on the initiative. The failure of the Swiss ban initiative should be instructive for other countries as they consider related issues.<sup>189 p. 153</sup>

While it is true that this was an unbalanced battle, this fact does not fully explain the defeat of the initiative. The lack of balance was, and will be, the case almost anywhere in the world, because the tobacco industry has much more financial, and also experiential, resources worldwide compared to tobacco control advocates. Cornuz, et. al., given the lack of access to the tobacco industry documents in 1995-1996, underestimated the financial input by the tobacco industry by far, when they stated:

Compared with at least SFr 2 million (about US\$ 1.6 million) spent by the opposition [not just the tobacco industry, even though the tobacco industry most likely contributed the major financial share], the initiative committee had only raised SFr 500'000 (US\$ 400'000).<sup>189 p. 151</sup>

According to the long range plan 1994-1996 for Switzerland, the industry actually calculated the cost of campaigns to be 7 to 8 million (probably in CHF, approximately USD 5.5

to 6.5 million).<sup>190 bates 2501145994</sup> As past experience elsewhere, such as in Florida or California, and in Switzerland has shown, people usually favor legislative tobacco control measures, until the tobacco industry starts its campaign.<sup>60, 191</sup> As Cornuz, et. al. also noted, the lack of professional PR management, lack of coordination among public health organizations, inefficient use of limited financial resources for media campaigns, and above all, obliviousness of past arguments and counter-arguments in other countries contributed to the overwhelming rejection of the initiative by the voters.<sup>189 pp. 151-153</sup>

What was almost completely missing was a public appreciation of the role of the tobacco industry in manipulating the political process, which was so effectively used by public health advocates in California in the early 1980's in their campaigns against the tobacco industry.<sup>60, 191 p. 286</sup> In those battles, public health advocates worked to expose the tobacco industry connections with the opposition.

The argument of shortage of time for campaigning for the public health advocates – due to advancing of the date of the vote by the government from March 1994 to November 1993 for technical reasons, brought forth by Cornuz, et. al., is only partly valid. As already mentioned above, the tobacco industry had been preparing itself through global cooperation for upcoming advertising bans in various countries without a break since the first referendum on tobacco and alcohol advertising ban in 1979. The tobacco industry had predicted the decision date of votation to be in the second half of 1993,<sup>190 bates 2501145994</sup> long before the opponents realized it.

The public health advocates had used mainly three arguments during the campaign for the advertising ban. First, they brought forth that “advertising seduces [people to smoke] and promotes the consumption of a product that is addictive,” second, “a yes ... protect[s] our youth,” and third, “a yes promotes health.”<sup>192 p. 2</sup> As Verena El Fehri, director of the Swiss Association for Smoking Prevention remarked, even though the campaign stressed smoking prevention among youth, it did not engage youth in the campaign.<sup>193 p. 3</sup> For most voters, the single measure of advertising ban did not seem to have an immediate or short-term effect on the prevention of deaths due to smoking. Also, the arguments brought forth by the tobacco industry, such as individual and market freedom was very effective in Switzerland where people strongly believe in free markets,<sup>193 p. 3</sup> as was the argument that advertising bans would severely harm the economy and would lead to even more unemployment, in a time when unemployment was relatively high in Switzerland, and the advertising industry's profit margins were shrinking.<sup>192 pp. 2-3</sup> A draft of a Philip Morris EEMA Corporate Affairs plan in 1987 informs us about Philip Morris' intentions, to be executed through the national tobacco manufacturers association, ASFC:

*Recruit more members for the 21 member Parliamentary “tobacco caucus” and stimulate these members to persuasively communicate industry views to the Parliament. Integrate these allies into the early warning system.*<sup>67 bates 2501254720</sup> [emphasis added]

Now that we have the documents, the question asked by Verena El Fehri, why 150 members of parliament were so strongly opposed to the advertising bans<sup>193 p. 3</sup> can be more easily answered: it was the heavy lobbying within a parliament that already had an influential “tobacco caucus.”

The following sections show that the tobacco industry knew from their experience in the US and elsewhere, that at a national level, lobbying of politicians and policy makers was the best weapon in the war against tobacco regulations.<sup>121</sup>

Even after the victory in the referendum on advertising ban of tobacco and alcohol products, the tobacco industry did not take a rest, certain that the next initiative or proposal would not be far off. Georges Diserens, Vice President for Switzerland, Scandinavia/Finland, and Duty Free of the EEMA region predicted in the Philip Morris long range plan for Switzerland 1994-1996, well aware of the tobacco industry experience in California<sup>60 pp. 21-32</sup>:

Antis [tobacco control advocates] initiate advertising restrictions proposals at cantonal and communal level (especially where initiative was accepted).<sup>190 bates 2501145992</sup>

The action plan therefore included:

Monitor antis' activities at cantonal and city level by using cantonal committees involved in the political campaign (CISC) [Communauté de l'Industrie Suisse de la Cigarette, Swiss Association of Cigarette Manufacturers].<sup>190 bates 2501145995</sup>

Knowing that not only direct advertising but indirect advertising, such as sponsoring were also in danger of being banned, Philip Morris sought to “fight creation of a foundation for sponsoring” through the “use of [their] allies to support industry position on exceptions and foundation for sponsoring.”<sup>190 bates 2501145997</sup>

One other reason for failure of the initiative mentioned by Cornuz, et. al. was the lack of support for the initiative by the Swiss government and parliament, though they did not attempt to give an explanation for the lack of support by the government and the parliament:

Both refused to back an alternative proposal for a less ambitious (but also more feasible) ban on tobacco advertising. Two months before the vote, every Swiss citizen was sent a booklet containing the recommendations of the Federal Council with the arguments both in favour of and against the initiative. However, the government's conclusions in the brochure were based on the arguments made by the opponents of the ban. The government mentioned that specific campaigns (such as educational campaigns targeted at schoolchildren) would be a more appropriate vehicle to implement tobacco control policy than the proposed ban. The government stated, for example, that a warning on cigarette packages about the harmful effects of tobacco would be more effective than the proposed advertising ban.

The Swiss government failed to note that tobacco sales and smoking prevalence declines have been found in countries where tobacco advertising has been banned (Canada, Norway, New Zealand). The importance of cigarette tax revenues was also not mentioned in the government's brochure.<sup>189 p. 151</sup>

The lack of support for the advertising ban – or the support for the tobacco industry and its allies -- is not surprising when one knows how seriously the tobacco industry took the maintenance of relationships with key politicians within the various major political parties combined with the failure of the public health community in Switzerland to mount an effective counterbalancing effort.

Meetings with the leaders of the political parties were arranged by sending faxes to the presidents of the political parties in October 1993 (the month before the vote), then following up with a letter in November 1993 – still before the vote, inviting the political leaders of various

parties to a meeting with tobacco industry representatives in December 1993 – after the vote, preceded or followed by a meal.<sup>194</sup> The political parties contacted included CVP (Christliche Volkspartei), SVP (Schweizerische Volkspartei), FDP (Freiheitliche Partei der Schweiz), SPS (Sozialistische Partei der Schweiz), Partie Libéral Suisse, and Autopartei. There may have been other parties invited,<sup>195, 196</sup> but we do not have documentary confirmation that SPS responded.

Even though we do not have the faxes sent to the presidents of the political parties, and the documents we have do not mention any specific objectives of the meetings, it is very likely that these meetings were meant to present the politicians with industry views and maintain the relationship with the politicians at a more personal level. During the approximately 2 hour long meetings, the following topics were presented: tobacco industry in Switzerland with relevant numbers, tobacco and health (for which Jean-Claude Bardy, president of the Swiss Association of Cigarette Manufacturers, thanked Helmut Reif, Principal Scientist of FTR/Philip Morris Switzerland), problems of the tobacco industry, and various other topics.<sup>196</sup>

In 1991, two years before the referendum on advertising ban, the Swiss Society of Health Policy, a private organization founded in 1976 with the aim of promoting the discussion in health policy through publications and regular conferences, published a monograph on tobacco advertising and tobacco consumption.<sup>197</sup> The monograph had been commissioned by the Swiss Federal Office of Public Health and written by two economists, Robert Leu and Danilo Bernasconi. After reviewing a long list of available literature on this topic, they came to the conclusion that:

Insgesamt ergibt sich aus diesen Studien damit die Schlussfolgerung, dass Einschränkungen der Tabakwerbung *unter sonst gleichen Umständen* den Tabakkonsum wahrscheinlich reduzieren würden. [Overall, these studies lead us to the conclusion that advertising bans on tobacco advertising, **under otherwise similar circumstances**, would most likely reduce tobacco consumption.]<sup>197 p. 96</sup> [emphasis in original]

Leu and Bernasconi go on to close with the following paragraph:

Unter der gesundheitspolitischen Zielsetzung stellt aufgrund der Ergebnisse der in diesem Gutachten zusammengefassten internationalen Literatur eine Kombination von Werbeeinschränkung, Gegen- (Gesundheits-)werbung und erhöhter Besteuerung das wirksamste Mittel zur Reduktion des Zigaretten- (Tabak-)konsums dar. Wie aus einigen ökonomischen Untersuchungen deutlich wird, besteht dabei insbesondere auch die Möglichkeit, dass synergistische Effekte auftreten. [From health policy perspectives, and under consideration of the results of the international literature reviewed in this expertise, a combination of advertising restriction, counter- (health-) advertising, and higher taxation is the most effective means to the reduction of cigarette (tobacco) consumption. As can be concluded from some econometric studies, it is possible that there are synergistic effects, i.e. the overall effect of such a combined intervention is greater than the sum of the effects of the individual interventions.]<sup>197 p. 101</sup>

It is unclear why this monograph, which was commissioned by the Swiss Federal Office of Public Health to the attention of the (first) Federal Commission for Tobacco-related Issues (which had several industry representatives or representatives of its allied organizations) never got the publicity it deserved in the political discussion of tobacco advertising ban during the debate leading up to the referendum in 1993. The fact that it did not figure prominently among the tobacco industry documents nor in the analysis of Cornuz, et al.<sup>189</sup> probably means that its dissemination had effectively been prevented early on by the tobacco lobby, or that public health

advocates failed to use a potentially highly useful argument effectively to have an impact on the outcome of the referendum that followed two years later.

The tobacco industry once again won a battle over advertising bans in Switzerland. The comprehensive analysis of the 1993 referendum on advertising ban by Cornuz, et. al., published in *Tobacco Control* in 1996,<sup>189</sup> has shown that multiple factors, including lack of and inefficient use of finances for and by public health advocates, repetition of a mistake made in late 1970's by combining advertising bans on tobacco and alcohol, failure to hire professional public relations people, and failure to apply other successful strategies used by public health advocates elsewhere, were responsible for this clear defeat of the advertising ban initiative.

Our analysis of tobacco industry documents not only confirms that the tobacco industry was actively fighting the advertising bans. It shows that the tobacco industry was actually the driving force of the entire anti-advertising ban coalition. It also demonstrates how successfully the tobacco industry managed to operate behind the scenes in order to keep a low profile and to avoid the issue of its low credibility as well as the issue of tobacco and health.



## Chapter 10. Taxation

### *Taxation, its development, and comparison to other European countries*

Despite Switzerland's high living standard, and the rapidly shrinking federal pension fund's partial dependence on the tobacco taxes, it has had, and still has, the lowest tobacco excise tax among all Western European countries. While other nations' excise taxes without VAT range from 57% (Belgium) to 66.7% (Portugal), Switzerland only asks for barely over 50% (1999). The entire tobacco tax goes to the federal pension fund, as written down in the constitution (about CHF 1.6 billion (approximately USD 1 billion) in tax revenue for the pension fund in 1999). In addition, 0.577% of tobacco sales revenues goes to a fund that subsidizes indigenous tobacco farming, which produces relatively poor quality tobacco.<sup>20, 198, 199</sup>

The contribution of tobacco excise tax to the pension fund is frequently used by the tobacco industry to preempt any legislation that may decrease tobacco sales, such as total advertising bans. The tobacco industry argues that decreasing cigarette consumption would hurt the already shrinking pension fund. They were confident that the customs administration agreed on this argument with them. The Philip Morris EEMA Long Range Plan for 1990-1992 lays out (EEMA: EFTA, Eastern Europe, Middle East, Africa. Philip Morris Europe, Middle East, Africa was reorganized into PM EEMA and PM EEC in January 1982, with both headquarters in Lausanne, Switzerland.<sup>200</sup>):

Excise taxes are earmarked to fund the State Pension (AVS) as such we have an ally in the customs administration to maintain a very high minimum specific tax.[Philip Morris, 1990-1992 #115]

### **Study by A. Holly**

A 1999 study by a group of economists from the University of Lausanne tested the influence of various models of tobacco excise tax increases on smoking incidence and prevalence. They recommended that the federal government should seriously consider tax increase as an effective way of reducing smoking incidence and prevalence. While increasing federal revenues, the tax increase would decrease the burden on the social services expenditure and abolish the need for another increase in V.A.T. in order to support the federal pension fund.<sup>201</sup> The tobacco industry criticized the report on the grounds that the smokers already covered the expenses they caused, and that higher cigarette prices would discriminate against those with low income.<sup>202</sup>

## Chapter 11. Conclusions and Recommendations

The tobacco industry in Switzerland, as in the US and in the rest of the world, has been using the same strategies over and over to fight science and tobacco control policies worldwide. Their well-organized intelligence network enables them to always stay up-to-date and exchange timely information and tested know-how between countries and regions. This is made possible through enormous financial resources of the tobacco industry and the fact that the industry has developed and maintains a network of experts worldwide.

The tobacco industry enlists the help and support of allies from other industries and the trade, as well as politicians, in order to maintain a low public profile. Swiss public health advocates have not exposed these relationships and forced these groups away from the tobacco industry.

The tobacco industry has skillfully exploited the Swiss tradition of consensus democracy, using the process of discussion and comment to water down or stop tobacco control measures. Public health advocates have not been effective players in this process because they have not devoted adequate resources to participating in this process. Public health advocates have not capitalized Switzerland's federal structure to enact tobacco control measures at the local level, where the tobacco industry is weakest.

Thanks to the incorrect belief within the public health community that Switzerland is a special case, the paramount and consistent role of the tobacco industry in tobacco control has been largely ignored. The success of the tobacco industry in keeping debates away from health and the effects of secondhand smoke in the background attests to the industry's success, as does the rising prevalence of smoking among youth and women.

The tobacco industry knows of its low credibility with the public. Therefore, discretion and confidentiality are deadly for tobacco control. The tobacco and health issue has to be kept visible in the public arena, where it can be discussed by as many people as possible for an extended period of time. This open discussion will limit tobacco industry's influence.

The tobacco industry acts through surrogates and front groups, particularly in the hospitality industry. To be effective, public health advocates must confront these connections and isolate the tobacco industry from such groups.

Tobacco industry thinks and acts very strategically and for the long term. Public health advocates in Switzerland need to adopt similar strategies, if possible by employing professional lobbyists, public relations people, and public policy specialists. The battle against tobacco will only be won if public health advocates learn how to work together and integrate successful tobacco control strategies from other countries. Many counter-arguments and counter-strategies have been successfully employed in other countries and can easily be adapted to Switzerland.

## **Zusammenfassung**

### ***Die erfolgreiche Beeinflussung der Tabakpolitik in der Schweiz durch die Tabakindustrie***

Der Zigarettenkonsum bei Leuten über 15 Jahren erreichte in der Schweiz in den frühen siebziger Jahren eine Spitze mit 3'700 Zigaretten pro Kopf und pro Jahr um daraufhin bis im Jahr 1994 auf 2'800 Zigaretten pro Kopf und pro Jahr zu sinken. Nach einer Abnahme des Raucheranteils von 37% im 1980 auf 31% im 1992 stieg dieser Anteil wieder auf 33% im 1997. Bei Frauen, v.a. die jungen Frauen, Kinder und Jugendliche musste man eine stetige Zunahme der Raucherprävalenz feststellen. Dies, trotz der besonderen Beachtung dieser Bevölkerungsgruppen in den Tabakpräventionsbemühungen.

Jedes Jahr sterben über 10'000 Leute an den Folgen des Tabakkonsums in der Schweiz, entsprechend etwa einem sechstel aller jährlichen Todesfälle, womit das Rauchen die führende Ursache der vermeidbaren Todesfälle in der Schweiz einnimmt. Diese Zahl ist 20 mal höher als die Zahl der Todesfälle durch illegale Drogen.

Die Tabaksteuer in der Schweiz ist die niedrigste in ganz Westeuropa.

Die Gesetze, die die Tabakprodukte und ihr Marketing und Verkauf regulieren sind schwach und haben wenig praktischen Einfluss auf die Tabakindustrie.

Es gibt keine wirkungsvollen Schutzmassnahmen der Nichtraucher vor den toxischen Substanzen im Passivrauch in öffentlichen Orten und am Arbeitsplatz.

Eine Umfrage in zehn Ländern über die Erfahrungen und Einstellungen der Leute betreffend Tabak und Rauchen im Jahre 1989, die von Philip Morris International in Auftrag gegeben wurde, zeigte, dass die Schweizer Bevölkerung sich der negativen Auswirkungen des Passivrauchens bewusst waren, dass aber nur eine Minderheit eine gesetzliche Regulierung vom Rauchen in Restaurants und am Arbeitsplatz befürworteten.

Ein erstes umfassendes Tabakpräventionsprogramm des Bundesamts für Gesundheitswesen vom 1996 bis 1999, konzentrierte sich auf spezifische Interventionen, Kooperation zwischen verschiedenen Partnern der Tabakprävention und Programmkoordination und -management. Es ignorierte die Rolle der Tabakindustrie.

Als Folge der kürzlichen Ereignisse in den USA und der aktiven Rolle der WHO in der Kritik der Tabakindustrie erwähnt der Entwurf des Fünfjahresprogramms für die Tabakprävention die Tabakindustrie als ein Haupthindernis der Tabakprävention.

Bis zur kürzlichen Fusion-von British American Tobacco (BAT) mit Burrus-Rothmans im 1999 war Philip Morris weitaus der bedeutendste Tabakkonzern in der Schweiz mit einem Marktanteil von fast 50% (und beinahe 25% für Marlboro allein). Seit der Fusion wird der

Tabakmarkt dominiert von PM und BAT, die einen Marktanteil im Zigarettenverkauf von je zwischen 45% und 50% innehaben.

Wie es in den USA in den frühen 1960er Jahren der Fall war, akzeptierten und diskutierten die wissenschaftlichen Mitarbeiter der schweizerischen Tabakindustrie (in diesem Fall FTR (Fabriques de Tabac Réunies)/Philip Morris) die gefährlichen Auswirkungen des Rauchens auf die Gesundheit in internen Firmenmitteilungen. Damals suchten diese Wissenschaftler gewissenhaft nach einer Möglichkeit die krebserzeugenden Wirkungen der Zigaretten durch die Elimination der kanzerogenen Komponenten zu reduzieren.

Entgegen der privat geäußerten Meinungen vertrat die Tabakindustrie in der schweizer Öffentlichkeit die Stellung, dass noch immer eine Kontroverse darüber besteht ob Rauchen Krankheiten hervorruft oder nicht.

Die „Kontroverse“ wurde genährt durch regelmässige Medieninformationen und wissenschaftliche Tagungen mit sorgfältig ausgewählten Wissenschaftlern, die in der Öffentlichkeit die Stellung der Tabakindustrie vertraten, jedoch ohne ihre Verbindung zur Tabakindustrie zu deklarieren. Die Beziehungen zu diesen „Beratern“ und „Zeugen“ wurden unterhalten durch direkte Zahlungen oder indirekt durch die Finanzierung ihrer Forschung.

In den späten 80er Jahren hatte die Tabakindustrie den Zerfall der gesellschaftlichen Akzeptanz des Rauchens in Europa als eine Hauptbedrohung zum Überleben identifiziert. Diese Erkenntnis führte zur Entwicklung einer umfassenden Strategie um das Thema des Passivrauchens zu bekämpfen. „Höflichkeit und Toleranz“ und wirtschaftliche Argumente wurden benutzt um die Aufmerksamkeit der Öffentlichkeit und der Politiker vom Thema Gesundheit abzulenken. Die resultierenden Strategien wurden oft ausgedacht in Zusammenarbeit mit leitenden Angestellten von anderen Tochniederlassungen von Philip Morris und dem internationalen Hauptquartier von Philip Morris in New York. Ihrer schlechten Glaubwürdigkeit in der Öffentlichkeit bewusst, wurden Journalisten Interviews gegeben und ihnen mitgeteilt den Namen der Tabakfirma im Zeitungsartikel nicht zu nennen.

Amtliche Publikationen wie „Rauchen und Sterblichkeit in der Schweiz“ vom Bundsamt für Gesundheitswesen, der Bericht über die Auswirkungen des Passivrauchens auf die Atemwege vom amerikanischen Bundesamt für Umwelt (US EPA), sowie wissenschaftliche Originalarbeiten, wie der Artikel im *American Journal fo Respiratory and Critical Care*, welcher sich mit dem Passivrauchen und Atemwegsbeschwerden befasst (SAPALDIA Studie) und von einer Gruppe von schweizer Wissenschaftlern geschrieben wurde, wurden schwer angegriffen von der Tabakindustrie. Die Tabakindustrie stellte dafür „Berater“ und Politiker mit Beziehungen zur Industrie an, die dabei die Standardargumente der Tabakindustrie benutzten.

Einer der aktivsten Industrieberater war Peter Atteslander, ein schweizer Bürger und Professor an der Universität Augsburg in Deutschland. Er schrieb Weissbücher für die Tabakindustrie und berichtete von Konferenzen weltweit. Atteslander schien im Wesentlichen das einzige Mitglied der in der Schweiz beheimateten „Arbeitsgruppe für Gesundheitsforschung“ zu sein, welche seine Arbeiten veröffentlichte ohne die Verbindung zur Tabakindustrie offenzulegen.

Um die Einschränkungen beim Rauchen in Restaurants und Hotels zu bekämpfen machte die Tabakindustrie aus dem Gastgewerbe, dem International HoReCa, einen starken Verbündeten. Der Generalsekretär des International HoReCa zu jener Zeit war Dr. Xavier Frei, gleichzeitig auch Präsident des SCRA (vermutlich Swiss Café and Restaurant Association). Das Gastgewerbe machte reichlich Gebrauch von den Ressourcen der Tabakindustrie und druckte wiederholt Stellungnahmen der Tabakindustrie in Mitteilungsblättern des Gastgewerbe, ohne dass die Mitglieder des International HoReCa oder des SCRA über die enge Verbindung zwischen ihrer Organisation und der Tabakindustrie informiert worden wären.

Das „Accommodation Program“ (in etwa Programm der gegenseitigen Rücksichtnahme), eine gut bekannte Tabakindustriestrategie um gesetzlichen Bestimmungen zuvorzukommen und in den USA entwickelt, wurde in der Schweiz angewandt. Die Tatsache, dass sogar das gleiche Logo in der Schweiz wie in den USA benutzt wurde illustriert die weltweite Wiederverwertung der Strategien und Taktiken der Tabakindustrie.

Die Verlagerung des Fokus vom Problem des Passivrauchens zu jenem der Innenraumluftqualität allgemein war (und ist noch heute) eine Hauptstrategie der Tabakindustrie weltweit um das Problem des Passivrauchens mit anderen Innenraumschadstoffen und Gebäudeventilation zu verwässern. Zu diesem Zweck sammelte eine Firma mit enger Verbindung zur Tabakindustrie, ACVA Atlantic Inc., USA, später umbenannt auf Healthy Buildings International, HBI, die Qualitätskontrollen der Innenraumluft durchführt, umfangreiche Daten, die von der Tabakindustrie benutzt wurden um die Rolle des Tabakrauchs als einer der Hauptschadstoffe der Innenraumluft herunterzuspielen. Angestellte der HBI wurden in die Schweiz gesandt um Daten von schweizer Büros zu sammeln, und diese Daten wurden in den Mitteilungsblättern des HoReCa benutzt um das „Accommodation Program“ zu unterstützen gegen gesetzliche Regelungen für das Nichtrauchen. HBI wurde in den USA diskreditiert.

Die Tabakindustrie versuchte die Rauchregelungen in Flugzeugen durch partielle Finanzierung der Weltkongresse des Internationalen Verbands der Flight Attendants (IFAA) zu beeinflussen. Dieser Einfluss wurde etabliert durch enge Beziehungen zum Präsidenten des Verbands, eine gängige Strategie der Tabakindustrie um Organisationen zu beeinflussen. Als im Gefolge von rauchfreien Flügen in den USA und anderswo die Swissair schliesslich rauchfreie Flüge einführte, wurde sie vom schweizer „Raucher Club“ und später vom schweizer „Club der Tabakfreunde“, dessen Präsident und Gründer ein ehemaliger Public Relations Funktionär der Tabakindustrie war, in Zeitungsartikeln heftig kritisiert.

Der Verband Schweiz. Zigarettenfabrikanten beeinflusste erfolgreich die Rauchregelungen in den Zügen durch Briefe an die Redaktoren von Zeitungen und durch direktes Lobbying von kantonalen Autoritäten und den Direktor der Schweizerischen Bundesbahnen.

Zwei Referendums über das Verbot von Tabak- und Alkoholwerbung im 1979 und 1993 wurde vom Schweizer Volk verworfen trotz der Tatsache, dass Umfragen vor dem Referendum Verbote von Werbung favorisierten. Dies wurde erreicht durch eine starke und anhaltende Allianz der Tabakindustrie mit den Werbeagenturen und den Print Medien. Die Tabakindustrie hielt sich im Hintergrund um negative Publizität zu vermeiden während sie die Kampagnen

gegen die Werbeverbote finanzierte und die Allianz gegen Werbeverbote mit gutgeschmiedeten Argumenten der Public Relations und Anwaltsfirmen der Tabakindustrie durch das International Tobacco Information Center, INFOTAB, belieferte.

Enge Beziehungen zu Beamten und Politikern wurde betont und gepflegt durch regelmässige Treffen mit den Spitzen der politischen Parteien und Instruktionen des „Tabak-Ausschusses“ des Parlaments. Dieser Ausschuss gab der Tabakindustrie die Mittel um gut informiert zu bleiben über die politische Agenda und den politischen Prozess zu ihren Gunsten einfach zu beeinflussen.

Zwar hat die Schweiz eine der innovativsten Programme zur Gesundheitsförderung, doch unterschätzen die meisten Leute des Gesundheitswesens die Macht von und den Antrieb hinter der Tabakindustrie, und nur wenige von ihnen haben die Tabakindustrie nicht direkt konfrontiert.

## Résumé

### ***L'industrie du tabac et son influence sur la politique du tabac en Suisse couronnée de succès***

La consommation de cigarettes chez les personnes âgées de 15 ans ou plus en Suisse a atteint son apogée au début des années 70 avec 3,700 cigarettes par personne et par an, puis a décliné jusqu'à 2800 cigarettes par personne et par an en 1994. Pendant les années 80 la proportion de fumeurs diminua de 37% en 1980 jusqu'à 31% en 1992, mais pendant les années 90 cette proportion augmenta jusqu'à atteindre 33% en 1997. Les femmes, surtout les jeunes, les enfants et les adolescents, ont vu leur prévalence de tabagisme augmenter continuellement, malgré des efforts de prévention visant particulièrement les enfants et les adolescents.

Chaque année, plus de 10,000 personnes meurent à cause du tabac en Suisse, à peu près un sixième de la mortalité annuelle de la Suisse, rendant le tabagisme la plus importante cause évitable de décès dans ce pays. Ce chiffre est plus de 20 fois plus important que le nombre de morts causées par les drogues illégales.

La taxe sur le tabac en Suisse est la plus basse de l'Europe de l'ouest.

Les lois gouvernant les produits de tabac, leur marketing et leur vente, sont faibles et ont peu d'effets pratiques sur l'industrie du tabac.

Il n'y a aucune véritable protection des non fumeurs contre les composantes chimiques toxiques de la fumée de cigarette, que ce soit dans les endroits publics ou sur les lieux de travail.

Un sondage commissionné par Philip Morris International sur les expériences et les attitudes à propos du tabac et du tabagisme dans dix pays en 1989 démontra que les Suisses étaient conscients des effets du tabagisme passif sur la santé, mais que seulement une minorité favorisait le contrôle gouvernemental du tabac dans les restaurants et sur les lieux de travail.

Un premier programme compréhensif de prévention du tabagisme, de 1996 à 1999, émit par l'Office Fédéral Suisse de la Santé Publique, a été caractérisé par un manque de financement adéquat, d'interventions précises, de coopération entre les associations de lutte contre le tabagisme, et de gestion. De plus, le programme a ignoré le rôle que joue l'industrie du tabac.

Grâce aux événements récents aux Etats-Unis et à l'attaque montée par l'OMS contre l'industrie du tabac, le programme quinquennal proposé pour 2001-2005 identifie l'industrie du tabac comme étant un obstacle majeur dans la lutte contre le tabagisme.

Avant la fusion de British American Tobacco (BAT) avec Burrus-Rothmans en 1999, le plus important producteur de produits de tabac en Suisse était Philip Morris (PM), avec près de 50% du marché (et près de 25% pour Marlboro uniquement). Depuis cette fusion, le marché du tabac est dominé par PM et BAT, qui ont chacune entre 45% et 50% du marché.

Comme c'était le cas aux Etats-Unis dans le début des années 60, les chercheurs des laboratoires de l'industrie du tabac (dans ce cas, FTR (Fabriques de Tabac Réunies)/ Philip Morris) ont accepté et discuté des effets nocifs du tabagisme sur la santé dans les communications internes des compagnies. A ce moment-là, ces chercheurs ont honnêtement essayé de trouver des moyens de réduire les effets cancérigènes des cigarettes en éliminant les éléments cancérigènes.

Contrairement à ses opinions exprimées en privé, la position publique de l'industrie du tabac en Suisse était qu'il existait encore une polémique à propos de la question de savoir si le tabagisme est nuisible à la santé.

La "polémique" fut entretenue grâce à de nombreuses conférences de presse et réunions scientifiques avec des chercheurs qui étaient soutenus par l'industrie mais qui déclaraient leur support public de la position de l'industrie sans parler de leurs liaisons avec l'industrie. Les relations entre l'industrie et ces "consultants" ou "témoins" étaient entretenues à travers des paiements directs et à travers le financement de leurs travaux de recherche.

A la fin des années 80 l'industrie du tabac avait identifié la perte d'acceptabilité sociale du tabagisme en Europe comme étant l'une des plus importantes menaces pour sa viabilité. Cette prise de conscience mena au développement d'une stratégie compréhensive visant la question du tabagisme passif. "La courtoisie et la tolérance" et les arguments économiques furent utilisés afin de détourner l'attention du public et des figures politiques des questions de santé. Ces stratégies furent souvent créées en consultation avec les cadres d'autres filiales de Philip Morris et du siège de Philip Morris International à New York. Bien au courant de leur manque de crédibilité dans le public, les compagnies de tabac accordaient des interviews aux journalistes mais les mettaient en garde de ne pas mentionner le nom de la compagnie de tabac dans leur article.

L'industrie du tabac attaqua en masse les documents officiels tels que "La mortalité due au tabac en Suisse" publié par l'Office Fédéral de la Santé Publique, le rapport sur les effets respiratoires du tabagisme passif publié par l'Agence de la Protection de l'Environnement des Etats-Unis, ainsi que des articles scientifiques comme l'article publié dans *American Journal of Respiratory and Critical Care Medicine* sur le tabagisme passif et les symptômes respiratoires en Suisse (étude SAPALDIA) écrit par un groupe de chercheurs Suisses. Les compagnies de tabac employèrent des "consultants" et des figures politiques qui avaient des liens avec l'industrie, et qui utilisèrent les arguments standards de l'industrie.

L'un des consultants les plus actifs était Peter Atteslander, un citoyen Suisse et un professeur à l'Université d'Augsburg en Allemagne. Il écrit des livres blancs pour l'industrie du tabac et fit un compte rendu des conférences de toutes les parties du monde. Atteslander semblait être essentiellement le seul membre du "Groupe de travail pour la recherche de santé", basé en Suisse, et qui publiait ses œuvres sans révéler ses liens avec l'industrie du tabac.

Pour combattre les limites sur le tabagisme dans les restaurants et les hôtels, les compagnies de tabac développèrent leurs relations avec l'association hôtelière International HoReCa. Le secrétaire général d'International HoReCa à ce moment-là était le Dr. Xavier Frei, le président de la SCRA (probablement l'Association des Cafés et Restaurants Suisses).



L'association hôtelière fit recours aux ressources de l'industrie du tabac et à maintes reprises publia les opinions de l'industrie dans les bulletins de l'industrie hôtelière, sans que les membres de l'International HoReCa ou de la SCRA ne soient avertis des liens étroits qui existaient entre leur organisme et l'industrie du tabac.

Le “programme d'accommodation,” un programme bien connu développé par l'industrie du tabac aux Etats-Unis pour empêcher que ne soient établies des lois contre le tabagisme dans les restaurants et lieux de travail, fut employé en Suisse. Le fait que même le logo était le même que celui utilisé aux Etats-Unis est un autre exemple de la manière dont les compagnies de tabac recyclent leurs stratégies et leurs tactiques dans le monde entier.

La stratégie qui consiste à détourner l'attention du public du problème du tabagisme passif en faisant appel au problème de la qualité de l'air intérieur en général était (et demeure) une des stratégies majeures employées par l'industrie du tabac pour diluer le problème du tabagisme passif avec ceux d'autres produits polluants et de la ventilation des bâtiments. A ces fins, une compagnie de contrôle de la qualité de l'air intérieur ayant des liens étroits avec l'industrie du tabac, ACVA Atlantic Inc., USA, plus tard renommée Healthy Buildings International (HBI), recueillit une large quantité de données pour l'industrie du tabac afin de l'aider à minimiser le rôle de la fumée de tabac comme polluant de l'air intérieur. Des employés de HBI furent envoyés en Suisse pour récolter des données sur les immeubles suisses, et ces informations furent utilisées dans les bulletins de HoReCa pour soutenir le programme d'accommodation et décourager les réglementations contre le tabagisme. HBI a depuis été discréditée aux Etats-Unis en tant qu'autorité impartiale sur le sujet de contrôle de la qualité de l'air intérieur.

Les compagnies de tabac essayèrent d'influencer la réglementation sur le tabagisme dans les avions à travers le financement partiel des congrès mondiaux de l'IFAA (International Flight Attendants' Association). Cette influence fut établie en favorisant de bonnes relations avec le président de l'association, une stratégie souvent utilisée par l'industrie du tabac pour influencer les associations. Quand, suivant l'établissement des vols non fumeurs aux Etats-Unis et dans d'autres pays, Swissair imposa enfin l'interdiction de fumer sur ses vols, elle fut sévèrement critiquée dans les journaux par le “Club des Fumeurs” Suisse, et plus tard par le “Club des Amis du Tabac” Suisse, dont le président et fondateur est un ancien cadre de relations publiques pour l'industrie du tabac.

L'Association Suisse des Fabricants de Cigarettes influença la réglementation sur le tabagisme dans les trains avec succès grâce à des lettres envoyées aux éditeurs de quotidiens et des requêtes directes auprès des autorités cantonales et du directeur du réseau ferroviaire national.

Deux référendums sur l'interdiction de publicité pour le tabac et l'alcool en 1979 et 1993 furent rejetés par les électeurs Suisses, malgré les sondages pré-vote positifs, à cause de l'alliance de l'industrie du tabac avec les agences de publicité et la presse écrite. Les compagnies de tabac réussirent à dissimuler leur rôle dans cette campagne afin d'éviter toute publicité négative, tout en finançant la campagne contre l'interdiction de publicité et en lui fournissant des arguments développés par des sociétés de relations publiques et des avocats à travers le centre international d'information sur le tabac, INFOTAB. Les compagnies de tabac

et leurs alliés employèrent des arguments économiques et politiques, tels que la menace d'effets négatifs sur l'emploi, les revenus, les impôts, et le droit des individus et des entreprises de combattre les interdictions de publicité.

Les liens étroits entre l'industrie du tabac et les figures politiques et officielles furent développés et maintenus à travers de nombreuses réunions avec les dirigeants des partis politiques et de nombreux briefings du "comité électoral pro-tabac" au Parlement. Ce comité électoral permit à l'industrie du tabac de rester bien informée au sujet de l'agenda politique et de facilement influencer le processus politique.

Bien que la Suisse ait certains des programmes de santé publique les plus progressistes et innovateurs, la plupart des partisans de la santé publique sous-estiment le pouvoir et la force motrice de l'industrie du tabac et qu'une minorité parmi eux a confronté l'industrie directement.

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## **Appendix 1: Selection of abbreviations and names**

ACVA Atlantic, Inc.	Synonymous with HBI (Healthy Buildings International), a company specializing in IAQ with very close and secret ties to the tobacco industry via the Tobacco Institute
ASFC	Association Suisse des Fabricants de Cigarettes (Swiss Association of Cigarette Manufacturers)
BSW	Bund Schweizerischer Werbeagenturen (Union of Swiss Advertising Agencies)
CA	Corporate Affairs
CATAC	Campaign Against Tobacco Advertising Censorship (cooperation between the European advertising industry and the tobacco industry, sponsored by INFOTAB)
CISC	Communauté de l'Industrie Suisse de Cigarette (Swiss Association of Cigarette Manufacturers, formerly ASFC – see above)
EAAA	European Association of Advertising Agencies
EAT	European Advertising Tripartite (senior executives of the official bodies representing all three sides of the European advertising business, Advertisers, Agencies and the Media)
EEC	European Economic Community (later EU – European Union)
EEMA	EFTA, Eastern Europe, Middle East, Africa
EFTA	European Free Trade Association
ETS	Environmental Tobacco Smoke (secondhand smoke)
HBI, Inc.	See ACVA Atlantic, Inc.
HVAC	Heating, Ventilating, and Air Conditioning
IAQ	Indoor air quality
IEA	International Energy Agency

INFOTAB	International Tobacco Information Centre, formerly called ICOSI, International Committee on Smoking Issues (an organization founded in the late 1970's by seven major international tobacco firms, including Philip Morris, British American Tobacco, and RJ Reynolds in order to better coordinate their activities in defending their interests). Based in Brussels.
International HoReCa	International Hotels, Restaurants, and Cafes Association
NMA	National Manufacturers Association
TI	The Tobacco Institute, a front organization
USAM	Union Suisse des Arts et Métiers (Swiss Federation of Trade Associations)
Vorort	SHIV-Schweizerischer Handels- und Industrieverein (Swiss Federation of Commerce and Industry)

## Appendix 2: Selection of tobacco industry people that appear in the report

Anthony Andrade	Legal department PME, Lausanne, (and Shook, Hardy & Bacon) Vice President Philip Morris Worldwide Regulatory Affairs (1995, reporting to Steven Parrish)
Jean Besques	Manager, Industry Issues, Corporate affairs, Philip Morris EEMA (July 1985)
Stig Carlson	Director Corporate Affairs, Philip Morris EEMA (1993, reporting to Andreas Gembler, President Philip Morris EEMA), formerly Manager Corporate Affairs, Philip Morris EEMA (May 1990, reporting to Mats Sjoebloom, Area Director Scandinavia/Finland, reporting to Georges Diserens)
Ulrich Crettaz	Manager, industry and economics affairs, FTR
Stephen C. Darrah	Vice President, Operations, Philip Morris EEC Region (1989) Senior Vice President, Manufacturing, Philip Morris USA (1993)
Georges Diserens	Vice President Switzerland, Scandinavia/Finland, Duty Free, Philip Morris EEMA (May 1990, reporting to Andreas Gembler), formerly Director Finance and Administration (January 1982, reporting to J. Gibson, Executive Vice President reporting to Walter Thoma, President, Philip Morris, EEMA, later in 1993, President Philip Morris EEC)
Helmut Gaisch (HGA)	Head, Research & Development (R&D), Philip Morris Europe (PME) Director, Science & Technology (S&T), Fabriques de Tabac Réunies (FTR) / Philip Morris EEC (October 1986, May 1990, reporting to Ronald A. Lively, Vice President Operations, Philip Morris EEC Headquarters)
Michael Horst	Vice President, External Affairs, Philip Morris EEC (1992, reporting to D. Greenberg, Vice President of Corporate Affairs, Philip Morris Europe, Brussels)
Max Häusermann	Scientist with the FTR laboratory in the 60's, later Vice President for Research and Development (January 1981, reporting to J. Gibson, Vice President of Operations and Eastern European Markets, Philip Morris International, Europe/Middle East/Africa)
Andreas Gembler	President EEMA Region (May 1990)
P. Glasson	President, Scientific Commission of ASFC in 1964.
David I. Greenberg	Vice President, Corporate Affairs, Philip Morris Europe, Brussels (1992)
J. M. Hartogh	Vice President, Corporate Affairs & Head Quarters Marketing, PM EEC
Ronald A. Lively	Vice President, Operations, Philip Morris EEC Headquarters (1990, reporting to Walter Thoma, President, EEC Headquarters)
Paul Maglione	Director, Corporate Communications & Issues Management, Philip Morris EEC (June 1991, reporting to Michael Horst, President, Philip Morris Corporate Services Inc. and Vice President, Corporate Affairs, Philip Morris EEC Headquarters) Director Public Affairs, Philip Morris EEC (1992, reporting to O. Buschong, Vice President, European Affairs, Corporate Affairs Europe, Brussels, reporting to D. Greenberg)

Raymond Pantet	Director Public Affairs & Relations FTR, Phillip Morris EEMA (May 1990, reporting to Georges Diserens)
Steven Parrish	General Counsel and Senior Vice President of External Affairs, formerly Head of Worldwide Regulatory Affairs (1995)
Jean-Pierre Paschoud	Director Marketing FTR, Philip Morris EEMA (March 1986, reporting to Georges Diserens) Director Industry Policy, FTR, Philip Morris EEMA (May 1990, reporting to Georges Diserens)
Yves Romanens	Scientific Attaché of CISC (Communauté d'Industrie Suisse de Cigarette, Swiss Association of Cigarette Industry)
Helmut Reif	Principal scientist, Science and Technology, FTR/Philip Morris Eec (April 1987, reporting to Helmut Gaisch, Director Science and Technology, FTR/Philip Morris EEC)
Keith Ware	Director Planning and Business Development (May 1990, formerly Director Planning Philip Morris EEMA; reporting to Roger Thomas, Vice President, Philip Morris EEC)
T. (Tana) L. Wells	Manager public affairs, corporate affairs EEMA
Matthew Winokur	Director Corporate Affairs, Philip Morris International (April 1993) Director Philip Morris Worldwide Regulatory Affairs, Europe (1995, reporting to Anthony Andrade)
Gérard Wirz	Issues Coordinator, Corporate Communications and Issues Management, Philip Morris EEC Headquarters, Brussels (June 1991, reporting to Paul maglione, Director, Corporate Communications and Issues Management, Philip Morris EEC Headquarters, reporting to Michael Horst, President, Philip Morris Corporate Services Inc. and Vice President, Corporate Affairs, Philip Morris EEC Headquarters, Brussels)