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# BRINGING THE TO JUSTICE

*Powerful, well-financed class action lawsuits against the tobacco industry are forcing company executives to rethink their strategies and contemplate a fate comparable to that of the asbestos industry. These new legal actions mark the beginning of the*

*“third wave” of tobacco litigation.*

*—from the Tobacco on Trial newsletter*



DON'T LET  
THEM ROPE  
YOU IN

**SURGEON GENERAL'S WARNING: Cigarette  
Smoke Contains Carbon Monoxide.**

Collage: Dr. Rob Flack

BY GEORGE GERBNER

About a year ago, on Friday, April 15, 1994, dignified pictures of seven of the most powerful chief executives in America graced the front pages of U.S. newspapers. They were shown taking a solemn oath, with right hands raised, testifying before the House Energy and Commerce

Committee's subcommittee on health and the environment.

The headlines featured only the claims of the chief executives. Inside, more pictures showed these executives making their points with evident conviction and force. In close proximity were large ads, often taking up

**THE TOBACCO  
INDUSTRY, WITH  
A LONG HISTORY  
OF STEALTH,  
PRESSURE AND  
SUPPRESSION,  
NOW CLAIMS  
THAT IT WAS  
VICTIMIZED BY  
ZEALOTS,  
BIGOTS, AND  
OTHER ENEMIES  
OF LIBERTY.**

more space than the stories themselves, offering in bold headline type, "FACTS YOU SHOULD KNOW." The "facts" summarized the principal points made by the phalanx of CEOs at the hearing.

According to a headline in the *New York Times*, the hearings were "Seen as 'High Tide' of Sentiments Against Smoking." Indeed, suggestion of the ebb tide followed two days later when the front page headline declared that "Tobacco Curb Seems Unlikely in '94 Congress." "It's theater," observed the *Times* editorial in the same issue. It seemed, in fact, a replay of the act performed many times in past decades. (The State of Florida's recently filed class-action lawsuit against the tobacco cartel could be the ultimate test of the CEOs acting abilities, however.)

No health expert or consumer advocate was cited, pointing out that at issue was the only advertised product guaranteed to kill, in the U.S. alone, more than 1,000 people a day. No one could be found to observe that both the phalanx of CEOs and their "facts" were at variance,

shall we say, with the facts established in the laboratories, the hospitals, and the cemeteries. The trouble is, opined the *Times* lead in a masterful non-sequitur, that "no one is exactly sure what to do to stop people from smoking." Regulatory and prohibitory options were given full airing in the coverage except the one that counts: to stop pushing it. The reason is only too clear. Tobacco is the cash-cow of the world's largest consumer-product conglomerates in the world. They exercise the largest single advertising clout affecting most newspapers and magazines in America. While smoking is slightly off on the average, it is increasing among young women,

some minorities, and in other countries where the global conglomerates are concentrating their efforts and reaping record profits.

So what to do when the sugar daddy turns out to push a drug that kills more people than all other illicit and addictive substances combined? Depict him as an agonized victim of circumstance, generous to a fault, a pillar of society as we know it, fighting for the civil right of self-destruction and against meddling bluenoses and bigots. The buildup began with the *Times Sunday Magazine* cover story on March 20. The title was "HOW DO TOBACCO EXECUTIVES LIVE WITH THEMSELVES?" It explained that "They spread the amazing wealth and, with it, their grim responsibility. They experience denial... use denial as an aggressive tactic... they embrace the country directly, involving as much of America as possible in their enormous success..." The main point of the story was the scary thought, at least to the *Times'* own media empire, that if for example, Philip Morris were to vanish "much of the country would cave in."

A commentary on the *Times'* highly selective op-ed page followed on March 24. Entitled "PSSST. WANNA LIGHT?" it was written by Richard Klein, author of *Cigarettes Are Sublime*, a book about the lure of smoking. As if to echo the tobacco advertising slogan, "Alive With Pleasure," Klein commented that "Government should not succumb to this Puritanism — this prurient interest that Americans take in each other's pleasures under cover of self-righteous appeals to morality or public health." He concluded knocking down the straw-man argument that one proposed: "...I think the country does not need another futile and costly experiment in prohibiting perennial vices."

The March 30 *Times* business section carried a story on its front page describing the new "empathy campaign," stressing "the constraints



Collage: Bontia Forthaler (Bachverfänger)

smokers face..." A typical theme: "Have you noticed finding a place to smoke is the hardest part of your job?" The story explained "... Cigarette marketers... reach out to smokers and tell them, in an empathetic, Clintonesque fashion, that their pain is shared."

The pain and suffering of the generous pushers, but not of their victims, continued to be a part of the peculiar "balance" between demonstrable truths and certified lies. Even when, in the March 31 issue, the *Times* reported that the American Medical Association accepted a health-food chain grant to market an anti-smoking kit, the emphasis was on "critics" who "questioned the kit's cost and effectiveness...." Even its inventor, a pediatrician, was credited with the implausible quote, damning his invention with faint praise, to the effect that "it has been proved effective in unscientific tests with 100 of his patients."

Despite some hard-hitting editorials (for those who read editorials) and some stories that cannot be suppressed, the coverage continues to betray the conflict media have in reporting an issue that relates to their self-interest. The deadly dilemma has a long history.

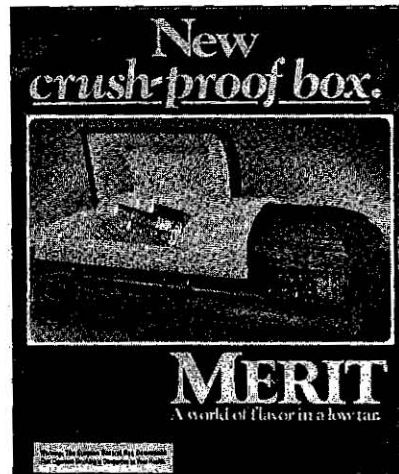
The tobacco industry has used its power to impede the flow of information about the consequences of smoking — consequences known at least since 1938, when Raymond E. Pearl of Johns Hopkins University presented data on 6,813 men showing that smoking is associated with definite impairment of longevity.

An outpouring of studies and medical reports followed, confirming and elaborating the evidence linking smoking to cancer and other diseases. Few organs of the free press were free enough from advertising pressure to report the findings. It took many years and millions of dead for the movement to gather momentum.

Glaring conflicts between increasingly rosy advertising and gloomy research findings prompted the U.S.

## LIFESTYLES SUSTAINED BY MASS MEDIA ENTERTAINMENT AND ADVERTISING

### INFLUENCE LIFE EXPECTANCY MUCH MORE THAN MEDICAL TECHNOLOGY.



College: Bonnie Wierheler (Barvertising)

Federal Trade Commission to publish its first tobacco order and report in 1942. Again, few newspapers published the conclusions. The crusading newsletter *In Fact* stated on May 8, 1950: "The daily press published news about the FTC order telling two of the five leading brands they were better than others, but 90 or 99 percent of the press suppressed every word of the same report confirming "...that tobacco contains poisons and is harmful to almost everyone who uses it."

*In Fact* soon became a victim of the McCarthy era, but its revelations had to be countered. The counterattack began in 1954 with full-page ads in 448 newspapers announcing the formation of the Tobacco Industry Research Committee (TIRC) to combat the bad news. From then on, TIRC (now Tobacco Institute) publicists were cited in news stories in order to "balance" adverse information.

One of the more successful of the tobacco industry's tactics was its effort to hide under the cloak of "issue advertising." It began with full page ads in January 1954 titled "A FRANK STATEMENT TO CIGARETTE SMOKERS"

in which TIRC pledged to contribute to research "into all phases of tobacco use and health" under the guidance of an Advisory Committee of "distinguished men" who are "disinterested in the cigarette industry." It was a lie, but the public relations agency creating and managing the campaign was credited with "brilliant inspiration in rescuing the cigarette industry from the most damaging assault it has ever sustained."

As findings of direct and indirect hazards from cigarette smoke in public and work places began to appear, and studies showed the effectiveness of smoking restrictions, the R.J. Reynolds Tobacco Company (now RJR Nabisco Inc.) launched an issue advertising campaign that made legal history. One of its full-page ads titled "OF CIGARETS AND SCIENCE" declared that "the issue between smoking and health is an open one." When that appeared, the Federal Trade Commission finally issued a complaint. It claimed that R.J. Reynolds understated the risks of smoking and the ad was therefore false and misleading. The attorney for the FTC argued that "Reynolds is free to speak on this issue... before the legislature, in news stories, op-ed pieces and scientific journals, and it can advertise truthfully. But it may not make deceptive statements in paid-for advertising to minimize consumers' fear about this most salient product attribute of cigarettes."

**HOW WELL AND HOW LONG AMERICANS LIVE ARE  
NO LONGER QUESTIONS OF MEDICINE OR FATE.  
PREVENTABLE ILLNESS AND PREMATURE DEATH  
ARE NOW MARKETED BY MEDIA, DRIVEN BY  
CORPORATE ADVERTISING CLOUT.**

Reynolds appealed. In August 1986 an administrative law judge ruled that the ad was an expression of corporate opinion, not sales talk, and thus outside of FTC jurisdiction. Although this was reversed on appeal, the company settled out of court and the industry continued its "issue-oriented" campaigns.

The strategy is designed to join the cause of tobacco with that of civil rights and freedom itself. The industry with a long history of stealth, pressure and suppression, now claims that it was victimized by zealots, bigots, and other enemies of liberty. Philip Morris leads the charge. One of its series of full-page ads warned: "If you happen to enjoy a cigarette, you are the potential target of violent antismokers and overzealous public enforcers determined to force their beliefs on the rest of society."

"CENSORSHIP? HERE? IN THE USA?" asked a follow-up ad disguised as another scholarly article. The copy said: "The issue is not smoking. The issue is simply the abuse of a constitutional right by a few who would obstruct the flow of information in an attempt to bend human behavior to match their notion of the ideal, their concept of the acceptable."

The censorship ad was the opening gun in a \$15,000 Philip Morris Magazine competition for the best essay that, in the words of the sponsors, "defines and defends the First Amendment's application to American



College: Bonnie Veurhauer (Backvertising)

business; and that specifically questions the ramification of a tobacco advertising ban on the future of free expression in a free market economy."

The announcement was sent to journalism schools across the country with a large poster asking in bold type, "IS LIBERTY WORTH WRITING FOR?" over an enlarged facsimile of the First Amendment. "OUR FOUNDERS THOUGHT SO. AND WE THINK SO TOO," declared the sponsors, explaining that the struggle for freedom leads directly to the fight against "a tobacco advertising ban under consideration in congress."

Things have changed since the Surgeons General reports, but only on the surface. Cigarette income enabled

Reynolds to acquire Nabisco, Del Monte, and Hawaiian Punch; Philip Morris to buy Miller Brewing, 7-Up, and General Foods; American Brands to absorb companies from Pinkerton guards to sporting goods makers. Lorillard profits helped Loews Corporation buy a controlling share of CBS. Fox Network owner and global media magnate Rupert Murdoch sits on the board of Philip Morris. Tobacco power, now conglomerated with food, soft drink, and other consumer items, is still able to obscure and dilute the full impact of its deadly legacy.

The World Health Organization reported a "world pandemic" of smoking-related illness responsible for a million deaths a year, "fueled mainly by intensive and ruthless promotional campaigns on the part of the transnational tobacco companies." Our own young people, particularly young women, and minority neighborhoods are the "third world" targets in our midst.

The notorious Joe Camel campaign has been a spectacular success. Smoking by children and adolescents has increased to 12 percent in the high schools. The sale of Camel cigarettes jumped from 0.5 percent when the campaign started in 1987 to 33 percent of the under-18 market by 1993.

The cultural-environmental front — stories we tell to millions — is the crucial new frontier in health promotion and disease prevention.

How well and how long Americans live are no longer questions of medicine or fate. Preventable illness and premature death are now marketed by media, driven by corporate advertising clout.

Smoking claims more victims than any deficiency in medical care or delivery. Lifestyles sustained by mass media entertainment and advertising influence life expectancy much more than medical technology. Culturally promoted behavior patterns devastate many more lives than highly publicized chemical and physical risks. The smoke

from a single cigarette contains about 100 times more cyanide than did the two grapes from Chile that triggered a panic in the spring of 1989. The Consumer Product Safety Commission banned lawn darts after three children were killed; but the 100-plus children who die each year from cigarette-ignited fires do not get protection. The Perrier benzene scare had Perrier quickly (if briefly) removed from the shelves. It would take 37 bottles of contaminated Perrier to equal the benzene in one pack of cigarettes. Orange juice is more heavily regulated than tobacco.

Prohibition (banning the product itself) would only drive the industry underground, out of control, and probably make it even richer and deadlier than it is now. Culturally induced behaviors can best be prevented on the cultural front.

The courts have recently ruled that there is no legal or constitutional basis for claiming unrestricted protection for paid advertising that is harmful to health. It certainly makes no sense to continue the advertising tax exemption and other subsidies for tobacco.

Going beyond that, we could give no better gift to our children and ourselves than to demand that congress follow Canada's example and restrict or ban plugging tobacco on all media. The "war on drugs" is a sham until we stop pushing the most lethal drug of all. ✕

*George Gerbner is chair of the Cultural Environment Movement. He is a Professor of Communication and Dean Emeritus at the Annenberg School for Communication at University of Pennsylvania.*

### FROM ANALYSIS TO ACTION

When you see a cigarette ad in a magazine, write "NO SUBSCRIPTION UNTIL YOU STOP ADVERTISING CIGARETTES" on their subscription card and mail it back to them. They will get your message and pay the postage to boot.



## THE MEDIA FOUNDATION



Photo: Shannon Mendes

Here we are! From left: Jen Van Evra, Sharon Kravitz, Sheila Mooney, Dan Deresh, Laura McConville, Mike Butts, Kim Anderson, Kalle Lasn, Linda Gould, Brenda Shaffer, Terry Sunderland.

### WHO WE ARE

The Media Foundation is a non-profit society dedicated to cleaning up the toxic areas of our physical and mental environments. We are challenging the outdated paradigms of consumer culture. Join us; become a sustaining subscriber; share *Adbusters* with a friend; become involved as a researcher, contributor, coordinator; help fund one of our Projects in progress:

#### THE DEMARKETING OF NORTH AMERICA

An ongoing multi-media public education campaign to take back control of the roles that the tobacco, alcohol, fashion, cosmetics, food, automobile and broadcasting industries play in our lives. Contact us if you want to jam your local airwaves with the *American Excess*, *Autosaurus* or *The Product Is You* TV campaigns.

*Campaign manager: Brenda Shaffer*

#### THE RIGHT TO COMMUNICATE

A legal action campaign to win the right to walk into a local TV station and buy airtime for advocacy messages. Call us if you are a constitutional lawyer ready to take legal action against the NBC, ABC and CBS networks for violating the American public's right to communicate.

*Campaign manager: Kalle Lasn*

#### THE BEST MEDIA LITERACY LESSON IN THE WORLD

A high school classroom video and lesson plan that shows teachers and students how to jump over that great divide between the passive consumption and the active production of meaning. We are looking for a co-production partner.

*Project manager: Kim Anderson*

#### ECOLOGICAL ECONOMICS

A university campus campaign to usher in a new economic paradigm. E-mail us if you want to air the *Economists Must Learn To Subtract* TV spot in your area, or do some jamming on campus.

*Campus networker: Jen Van Evra*

#### MINDSHIFT—A SIX-PART TV SERIES

Documents the six great paradigm shifts that we must all negotiate in the '90s. We are fund raising to produce the pilot.

*Executive producer: Kalle Lasn*

#### THE CULTURE JAMMER'S HANDBOOK

The companion book to the TV series. Contact us if you're a hot-shot writer with a culture jammer's heart.

*Managing editor: Dan Deresh*