

Tobacco industry interference with tobacco control

Professor Judith Mackay

MBChB (Edin), FRCP (Edin), FRCP (Lon)

Senior Advisor, Vital Strategies

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Global forms of Tobacco Industry Interference



Manoeuvring
to hijack the
political and
legislative
process



Exaggerating
the
economic
importance
of the
industry



Manipulating
public
opinion to
gain the
appearance
of
respectability



Fabricating
support
through
front groups



Discrediting
proven
science and
economic
evidence



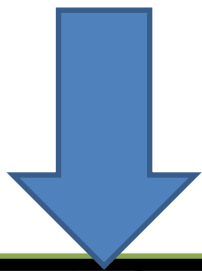
Intimidating
governments
with
litigation or
the threat of
litigation, or
trade threats

First, industry promotion undermines tobacco control



- Tobacco advertising promises –
 - Health
 - Attractiveness, Popularity, Slimness
 - Macho
 - Emancipation
 - Adulthood
 - Being cool
- all designed to manipulate children into bondage, the opposite of the freedom they promise.





1. Hijack political process



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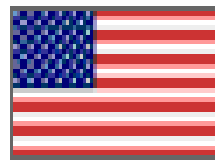


Discrediting
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Intimidating
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e.g. USA Political contributions



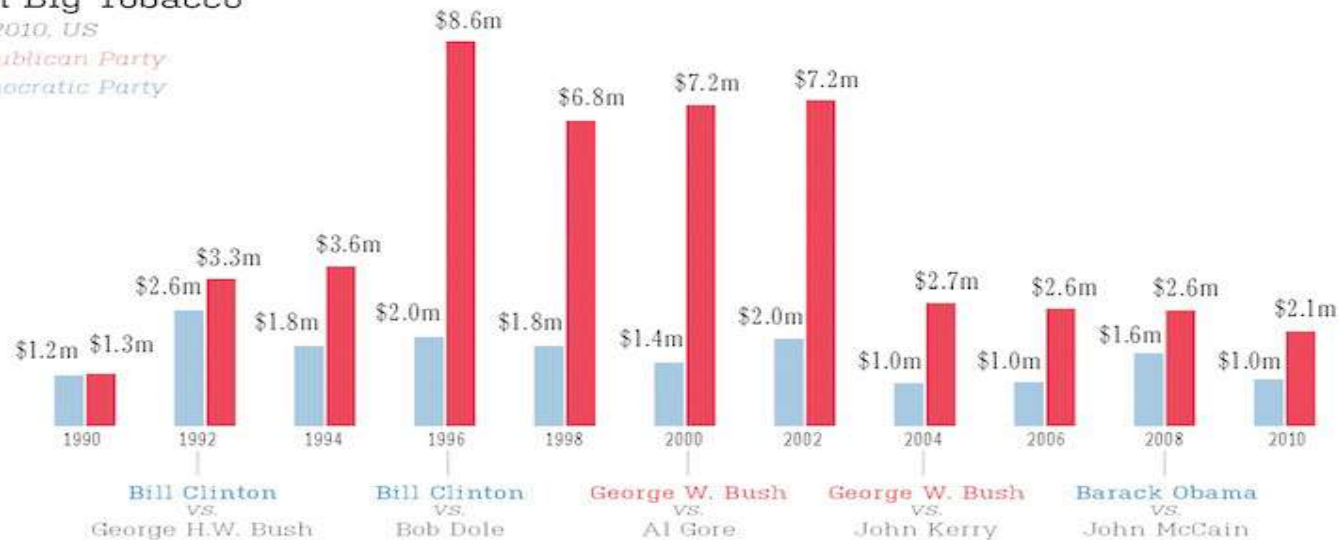
Total Federal Election Contributions

From Big Tobacco

1990-2010, US

to Republican Party

to Democratic Party



EU Lobbyists in Brussels, 2014

- Tobacco and its associated industries: **80**
- Health advocates: **5**

(Full time equivalents)

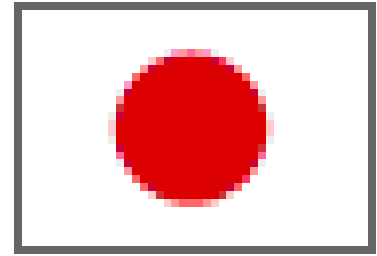


Industry: Political corruption

- Pan-Africa: “The Secret bribes of Big Tobacco” BBC, 2015



Industry - Japan



- **Lighting Up the Foreign Corrupt Practices Act: A Case Study of U.S. Tobacco Industry Political Influence Buying in Japan**
- **Mark Levin**
William S. Richardson School of Law

Industry uses pseudo-freedom arguments



- Smoking is a “freedom”.
- Corporations should have the freedom to advertise, sponsor, promote, and use logos.
- Tobacco control is an interference with individual freedom.
- Governments should not act like a “nanny state.”



Rebuttal of freedom argument



- Government responsibility: If there was a factory that used a chemical that caused cancer, most people would think that the responsibility of government to intervene to protect the health of the workers by making the owner remove the chemical, or closing the factory. Tobacco is no different...
- Even John Stuart Mill, the famous Victorian libertarian said: “No one should have the right to harm others.”

We accept many restrictions on freedom in the interests of our own health and the public good



Even without laws...



Rebuttal



- Most countries follow or incorporate the **International Covenant on Civil and Political Rights (ICCPR)** clause of exceptions International to total freedom :

Article 12 3. *The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), **public health** or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*

* **Ratified by Japan 1979**

- Many other international treaties (Human Rights, Women, Children, etc) have right-to-health clauses.

2. Mis-economics



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Economic benefits: Africa



Malawi

In the early 1990s, a tobacco company consultant published a journal with articles critical of the World Health Organization. One of the articles, written by a man who owned a tobacco company, stated that "the list of economic benefits of tobacco is a long one. *Tobacco-related deaths and illnesses are primarily problems of affluent societies.*" Philip Morris distributed thousands of copies of the journal.

"Industry: the list of economic benefits of tobacco is a long one"

But tobacco farming is not an economic benefit



- Tobacco is NOT a lucrative cash crop.
- Tobacco farming is labour-intensive with serious negative environmental, health and social impacts, & food insecurity due to displacement of food crops.
- Is Malawi wealthy?
- Developing sustainable alternatives should be at the core of government tobacco-control policy.



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• Viable agricultural alternatives exist

Tobacco crop substitution Yuxi, Yunnan China Project



458 farming families'
annual income
increased
between 21% and
110% per acre in 4
years



3. CSR



					
Manoeuvring to hijack the political and legislative process	Exaggerating the economic importance of the industry	Manipulating public opinion to gain the appearance of respectability	Fabricating support through front groups	Discrediting proven science and economic evidence	Intimidating governments with litigation or the threat of litigation, or trade threats

TI: Image management



Imperial Tobacco

“Recent attempts by large tobacco companies to represent themselves as socially responsible have been widely dismissed as image management.”

Gary Fooks et al., University of Bath, UK, 2011

China: Sponsor schools

China National Tobacco Corporation has sponsored at least 69 elementary schools and thousands of students are exposed daily to pro-tobacco propaganda, names and messages.

School signage reads

“Genius comes from hard work
Tobacco helps you be successful”

China

China National Tobacco Corporation has sponsored at least 69 elementary schools, and thousands of students are exposed daily to pro-tobacco propaganda, names, and messages. School signage reads: *“Genius comes from hard work / Tobacco helps you to be successful.”*



Industry schools programmes

- Buy 'good' image – “we don't want youth to smoke”
- Say nothing about smoking risks or industry conduct
- Say nothing about persuading parents to quit
- Designed to prevent regulation of the industry
- Are not effective in reducing youth smoking.
- Japan: JTI set up Youth Smoking Prevention Council



THE DEVELOPMENT OF TOBACCO INDUSTRY STRATEGY

The potential positive outcomes of adopting programs of this nature may be:

- o increased goodwill and reputation of the tobacco industry.
- o strengthening of social and economic systems in which the industry operates.
- o the ability to affect the problem areas that most concern the tobacco industry and simultaneously obtain tax benefits.
- o a more sophisticated understanding by government regulators of the needs/behaviors of industry. For example, a program to discourage teens from smoking (an adult decision) might prevent or delay further regulation of the tobacco industry. A fire safety program which emphasizes precautions against all potential fire hazards would demonstrate the industry's concern for public safety.



A program to discourage teens from smoking (an adult decision) might prevent or delay further regulation of the tobacco industry.

*US Tobacco Institute
April 1982*

Bates 03673753-03673762

FUND CHARITIES

US charitable contributions from Altria, 47.2 US\$ millions, 2013

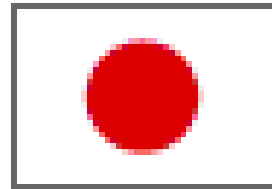
- Education
- Arts and culture
- Civic
- Employee programmes
- Environment
- Humanitarian aid
- Military Service support



CATEGORY/ PROGRAM	TOTAL AMOUNT	NUMBER OF GIFTS	AVERAGE GIFT PER ORG	FACT
MIDDLE SCHOOL EDUCATION AND SUPPORT (E.G. SUCCESS 360®)	\$25.40	78	\$0.33	78 different educational institutions and programs received funding
ARTS AND CULTURE	\$4.40	28	\$0.16	The Smithsonian Institution received funding
CIVIC	\$2.00	44	\$0.05	Two donations were to healthcare organizations
EMPLOYEE PROGRAMS	\$4.40	89	\$0.05	88 different organizations received funding through employee programs
ENVIRONMENT	\$2.80	15	\$0.19	Six charities in Virginia, a top tobacco-growing state, received funding
HUMANITARIAN AID AND MILITARY SERVICE SUPPORT	\$1.60	13	\$0.12	The American Red Cross and its Virginia chapter received funding
BUSINESS- DIRECTED GIVING	\$4.30	390	\$0.01	The Texas Conservative Coalition Research Institute received funding
IN-KIND GIVING	\$1.20	24	\$0.05	485 charitable events received wine donated by Ste. Michelle Wine Estates, of which Altria is the parent company
REGADRAL GIVING	\$1.10	115	\$0.01	6 chapters of the Boys & Girls Club received funding
TOTALS, IN MILLIONS	\$47.20	796	\$0.97	

Source: tobaccoatlas.org

CSR Japan – PMI alone, 2014



Category	Organization	Purpose	USD	
Empowering women	Center for Child Abuse Prevention	Hotline for abused children	20,203	
Empowering women	National Domestic Violence Hotline Association	Toll-free hotline for domestic violence survivors	25,253	
Empowering women	National Net of Shelters for Women	Advocacy services and interest-free loans for domestic violence survivors	30,306	
Empowering women	National Net of Shelters for Women	Annual symposium on the issue of domestic violence	10,102	

Help efforts to deal with volcanic eruption in Indonesia



Sampoerna, Indonesia's largest tobacco company, sponsored a rescue camp on the slopes of Mount Merapi, a volcano that erupted in Java in 2010. Staff members wore uniforms with company logos and drove response vehicle and trucks with corporate logos.

Indonesia

Sampoerna/Philip Morris International, Indonesia's largest tobacco company, sponsored a rescue camp on the slopes of Mount Merapi, a volcano that erupted in Central Java in 2010. Staff members at the camp wore uniforms with company logos and drove response vehicles and trucks with the same logos.



Liaise with universities, women's groups, Chambers of Commerce, 2016



4. Front groups



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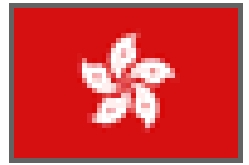


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Industry-linked front groups



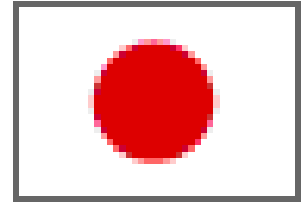
TI-funded groups active globally



ITIC "Increasing tobacco tax leads to smuggling"

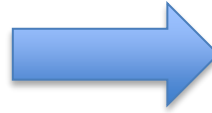


Japan:



SAYS

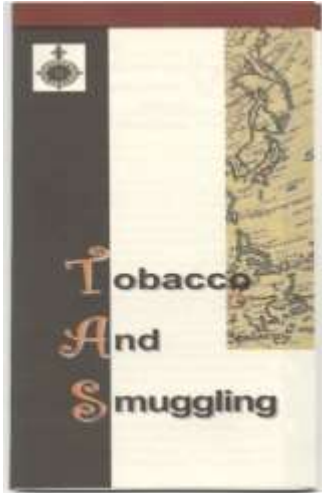
“Low tax”



“No illicit market”

Not true!!!!

Yet... Tobacco Industry smuggles its own cigarettes



- The industry continues to profit from sale of cigarettes.
- ONLY governments lose money (tax component).
- Smuggled cigarettes flood the market with cheap cigarettes that are more available to youth especially.
- Smuggled cigarettes evade legal restrictions & regulations, eg health warnings, bans on sales to minors, or restrictions as to where they might be sold.
- The tobacco companies use smuggling to try to persuade governments not to increase tobacco taxes.

WHO FCTC COP6, 2014



“Most recently, and in a particularly brazen move, the tobacco industry brought its agenda and its voice here to the heart of tobacco control. Yesterday, the **International Tax and Investment Centre (ITIC)**, whose board of directors includes several tobacco companies, convened Parties and Observers to discuss tobacco tax and price policies without fully disclosing their vested interests. Please, do not be fooled by them.

---Dr Margaret Chan, Director-General, WHO

WHO FCTC COP6, 2014



“Their agenda is easy to see: to undermine your power, your efforts to adopt the robust, expert-driven proposed guidelines on tobacco tax and price policy.

“This is the kind of tobacco industry tactic. They just want more and more market share. They could not care less if they are killing children. Again, don’t be fooled by them.”

5. Discredit science, economics



					
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Paid to lie...

“Nicotine is not addictive”



Economic myths

Tobacco industry says	Health economists say
Tobacco control will lead to job and business losses for farmers, factory workers, retailers, the hospitality industry and other businesses, and governments	NOT TRUE
The creation of smoke-free areas will cause loss of income for restaurant owners.	NOT TRUE
TAPS bans will severely affect the advertising industry	NOT TRUE
Increasing tobacco taxes will harm the poor and increase illicit trade	NOT TRUE

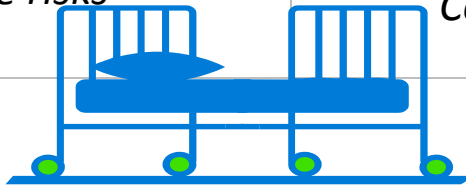


Reality: Economic costs of tobacco

HEALTH COSTS	OTHER ECONOMIC COSTS
<i>Medical and healthcare costs</i>	<i>Time off for “smoke breaks”</i>
<i>Higher absence rates</i>	<i>Lower productivity</i>
<i>Loss of skilled workers by premature death</i>	<i>Fires caused by careless smoking</i>
<i>Increased early retirement due to ill health</i>	<i>Damage to building fabric</i>
<i>Secondhand smoke risks</i>	<i>Litter of billions of cigarettes, matches, packets, lighters</i>
	<i>Costs of tobacco agriculture</i>



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And by the way...

- Economic benefit
- Worker protection



Hong Kong Restaurant Tax Receipts

Before ban and
2 years later:

↑ **31%**



Reality: Costs to smokers & families

- Premature death
- Ill health
- Health care costs
- Costs of second-hand smoke on family health
- Costs of purchasing cigarettes

A pack of Marlboro or equivalent international brand will buy...



For the price of
20 Marlboro
you could buy...



...one and a half
kilograms of
cucumbers in
Georgia...



...a dozen eggs
in Panama...



...four pairs of
cotton socks in
China...



...a dozen
coconuts in
Papua New
Guinea...

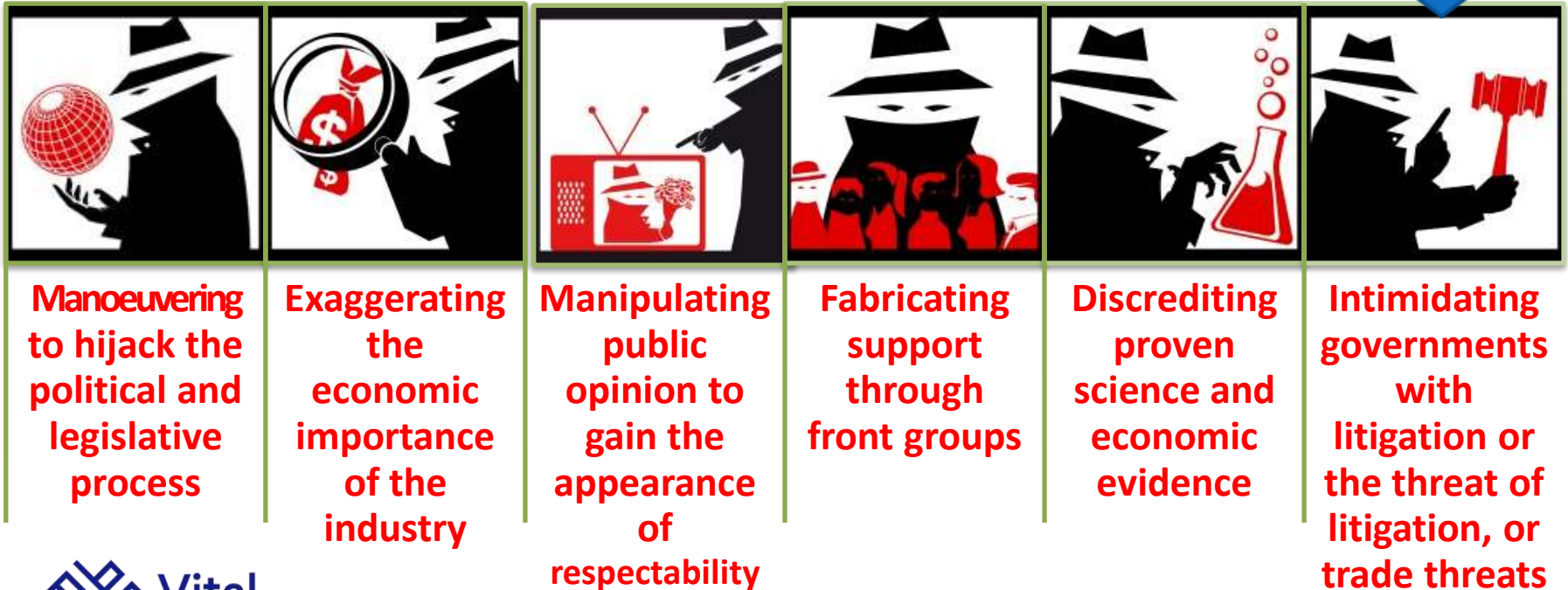


...one kilogram
of fish in France,
Ghana or
Moldova...



...six kilograms
of rice in
Bangladesh.

6. Litigation, trade threats



Legal challenges



THE INDUSTRY SAYS:

“We will continue to use all necessary resources... and where necessary litigation, to actively challenge unreasonable regulatory proposals.”



.....Louis Camilleri, Chairperson and CEO, Philip Morris International, 2010

Legal challenges: Australia



“It is fair to say that we are being targeted by what can only be described as **subversive and disgraceful tactics by the tobacco industry**, including using every available vehicle and opportunity to try and intimidate and/or threaten us to withdraw the legislation.”



Legal challenges: TI sues South African Govt, 2012

The Constitutional Court dismissed an appeal by BRITISH AMERICAN TOBACCO over suing the Minister of Health claiming that the Tobacco Products Control Act was unconstitutional. The Court found that the hazards of smoking far outweigh the interests of smokers, and that South Africa is obliged to observe the WHO FCTC.

Costs of trade challenges

- Typical cost to govts: US\$3-8 million
- As high as over US\$ 50 million
-  Regulatory chill effect, even if rarely successful



Now...ITIC Challenges



- Journal *Tobacco Control* re News item
- SEATCA
- ‘Complaints’ to ASH UK and SF Partnership

LMIC lack experience in addressing legal challenges and trade threats



- Many still battling infectious disease, infant mortality.
- They often lack experience in the new paradigm of an industry as a vector.

ACTION: Stop the industry

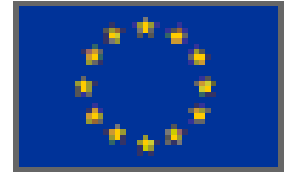


End tobacco industry corporate giving



- ... that tobacco companies are increasingly resorting to, and prevent their buying goodwill and credibility to earn political mileage.

Sue the industry, EU 2000–2014



- EU V. RJR NABISCO Court case by the European Community against RJR Nabisco before the US court for racketeering and smuggling practices.
- The Court stated "[RJR officials] at the highest corporate level [made it] part of their operating business plan to sell cigarettes to and through criminal organizations and to accept criminal proceeds in **PAYMENTS FOR CIGARETTES BY SECRET AND SURREPTITIOUS MEANS.**"



Sue for Healthcare Costs

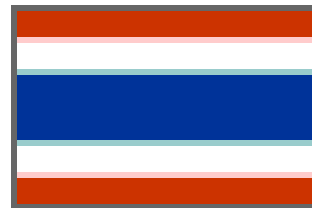
- **SINCE 2000 different Canadian provinces have sued the tobacco industry for recovery of billions of dollars in health care costs caused by tobacco-related disease, alleging that the tobacco companies engaged in a DECADES-LONG CONSPIRACY TO MISLEAD ABOUT THE HEALTH RISKS OF SMOKING and to suppress information about the dangers of smoking.**



Fight legal challenges

Australia 2012+

- The Australian government has been fighting challenges from TOBACCO COMPANIES using a bilateral investment treaty between Australia and Hong Kong, and the WTO, on the *Tobacco Plain Packaging Act*



Resist legal challenges Thailand, 2013

- The petition of **TOBACCO MANUFACTURERS** to stop the Minister of Public Health from implementing larger-sized packet warnings

LEGAL CHALLENGES and TRADE THREATS TO TOBACCO COMMERCE

2015 Bloomberg/Gates announced USD4m fund to support countries against trade threats



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LEGAL CHALLENGES

Rising legal challenges to tobacco control in selected countries 2010-2014

2009

Uruguay challenged a ban on packages of less than 10 cigarettes. The Court observed that the WHO FCTC is a human rights treaty that ratifies the idea that economic freedoms should be limited in order to protect economic and social rights.

URUGUAY
After several tobacco control laws, affiliates of PHILIP MORRIS INTERNATIONAL challenged two additional regulations in 2009, including 80% graphic health warnings, as a violation of a bilateral investment treaty between Switzerland and Uruguay. They also challenged and lost in the domestic courts.

AMERICAN TOBACCO over-ruled the Minister of Health claiming that the Tobacco Products Control Act was unconstitutional. This case involved person-to-person marketing techniques prohibited under a TAPS ban. The Court found that the hazards of smoking far outweigh the interests of smokers, and that South Africa is obliged to observe the WHO FCTC.

TOBACCO WHOLESALERS, which had challenged a ban on selling of tobacco products within 100 yards of any educational institution. Many cases have been brought against githis. The Court of the State of Elor dismissed a challenge by **DISTRIBUTORS** to the ban on githis or pan-mazals containing tobacco.

SRI LANKA
The Court of Appeal denied **CEYLON TOBACCO COMPANY'S** request to delay 80% graphic pictorial health warnings, but the court also ordered a reduction in the size of the warnings to 50%-60% of the pack.

INDONESIA
The Court accepted some challenges, but rejected a constitutional challenge by Indonesian tobacco farmers and industry workers to Indonesia's Health Law.

PHILIPPINES
Various legal cases regarding jurisdiction over tobacco regulations, including graphic health warnings, TAPS bans and smoking bans are ongoing.

AUSTRALIA
The Australian government is fighting challenges to its *Active Main Packaging Act*. One challenge is from **PHILIP MORRIS ASIA** using a bilateral investment treaty between Australia and Hong Kong. The other challenge is from several countries using the World Trade Organization.

Protect against undue influence

“We need to be alert and firm in protecting our tobacco control policies from the commercial and vested interests of the tobacco industry.”

Evita Ricafort, lawyer with HealthJustice, Philippines, 2011





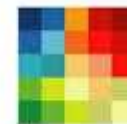
WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

Article 5.3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

And Guidelines



Firewall...



Altria



and monopolies

Thank you!



vitalstrategies.org

More resources

- Google 'tobacco industry undue influence'
- <http://seatca.org/?p=5418>
- <http://www.stopcorporateabuse.org/industry-interference>
- <http://www.tobaccoportal.org/marketing-and-influence/>

