

TOBACCO ADVERTISING AND PROMOTION

COUNTERING INDUSTRY ARGUMENTS

Industry argument: A ban on tobacco advertising won't decrease tobacco use.

Response: Today, we have compelling evidence that comprehensive bans on tobacco advertising, promotion, and sponsorship can significantly reduce cigarette and other tobacco use.^{2, 3} Research conducted between 1970 and 1992 in 22 countries found that comprehensive bans can reduce tobacco consumption by 6.3%.³ A study involving 30 developing countries between 1990 and 2005 showed that comprehensive bans resulted in a 23.5% reduction in per capita consumption.⁴ ■

Industry argument: Tobacco advertising, promotion, and sponsorship targets only adult smokers.

Response: Internal tobacco industry marketing plans reveal careful targeting of young people. Documents from R.J. Reynolds (RJR), released in 1998, show that the company sought to reverse its declining sales by targeting 14 to 24 year olds. RJR memos describe the success of the Joe Camel cartoon in France and state that the campaign was “about as young as you can get, and aims right at the young adult smoker Camel needs to attract.”⁵

Tobacco advertising, promotion and sponsorship target non-smokers and youth especially in developing countries where regulations on advertising and promotion are weak and knowledge of the danger of tobacco is limited. Tobacco industry advertising tactics include concert ticket giveaways, prizes after buying a certain number of packs, and free samples of cigarettes, which cater specifically to low-income groups such as youth and the poor.^{6, 7}

Evidence from recent years shows that youth smoking rates in many developing countries are on the rise. Increasing tobacco use rates negatively affect educational opportunities, financial stability of families, and increase healthcare costs to households.⁸⁻¹¹ For example, homeless children in India spend a significant portion of their income purchasing tobacco, often prioritizing tobacco over food.¹² In Niger, students spend 40% of their income on cigarettes.¹³ ■

Industry argument: Tobacco companies do not promote selling to minors. In contrast, they educate retailers about not selling to minors, and they educate youth about harms of smoking by carrying out events and sponsoring school-based no-smoking programs.

Response: Industry-sponsored youth prevention programs are created to improve the tobacco industry's public image and discourage further tobacco control legislation.¹⁴ These programs are ineffective at best and, at worst, serve as a type of brand promotion and encourage youth to smoke.^{15, 16} ■

A key defense strategy employed by tobacco companies appears to be to “throw a lot of mud at the wall, hoping that some of it will stick.”¹

Industry argument: Advertising, promotion, and product displays do not encourage people to start smoking; they just encourage tobacco brand loyalty, inform about available products and entice current smokers to switch brands.

Response: This claim was answered best by David Abbott, chairman of British advertising agency Abbott Mead Vickers, in 1988: “I think arguments like shifting brands are just insulting in their shallowness... I think advertising has certainly helped to introduce new smokers, be they women or be they in the Third World.”¹⁷

A growing body of research confirms that tobacco advertising and promotional activities increase smoking initiation. A 2008 review of nine longitudinal studies involving more than 12,000 youth concluded that “tobacco advertising and promotion increases the likelihood that adolescents will start to smoke.”¹⁸ Point of sale advertising also encourages youth to start smoking.¹⁹ A study in the United Kingdom conducted between 1999 and 2004 found that for each form of tobacco marketing that youth recognized, the likelihood of smoking initiation increased by seven percent.²⁰ In a 2004 study, familiarity with local tobacco billboards increased the likelihood of smoking initiation among 13 to 14 year olds in Spain.²¹ ■

Industry argument: Advertising and product visibility in retail establishments are needed to provide consumers with information about which brands are available so they can make informed choices about products.

Response: Point-of-sale advertising is very important to the tobacco industry, especially when other forms of advertising and promotion are banned.²² Tobacco industry documents show that the industry uses point-of-sale advertising to increase overall cigarette sales and not just increase market shares.²³

Industry argument: Bans on advertising and product visibility violate freedom of expression, the right of free enterprise, and intellectual property rights protected by international treaties.

Response: Around the world, national courts have ruled in favor of public health and against the deadly interests of the tobacco companies on the issue of tobacco advertising, promotion, and sponsorship. In France, the Constitutional Council

declared that the French ban on tobacco advertising is constitutional because it is based on public health protection and does not interfere with free trade.²⁴ In the United Kingdom, a ruling noted that promotion of a legal product does not automatically give the manufacturer unlimited freedoms. Instead, the exercise of such freedoms is subject to formalities, conditions, restrictions and penalties which may be prescribed by law and are necessary in the interests of the protection of health and for the protection of rights of others.²⁵ International legal instruments such as the Inter-American Commission on Human Rights and some national constitutions, in general, subordinate private property interests to larger social interests, including the preservation of the public health.²⁶ ■

Industry argument: Advertising, promotion and sponsorship should be regulated, not banned.

Response: Tobacco advertising, promotion and sponsorship target non-smokers and youth especially in developing countries where regulations on advertising and promotion are weak and knowledge of the danger of tobacco use and exposure to tobacco smoke is limited.^{6, 7} FCTC Article 13 requires that Parties, in accordance with their constitutions and constitutional principles, undertake a comprehensive ban of tobacco advertising, promotion, and sponsorship within five years after the treaty's entry into force in their countries. The FCTC Article 13 Guidelines make it clear that a "comprehensive ban" required by FCTC Article 13 covers all tobacco advertising, promotion, and sponsorship without exception.²⁷ A Party not in a position to undertake a comprehensive ban due to its constitution or constitutional principles must apply restrictions on all tobacco advertising, promotion, and sponsorship.²⁸ In that case, restrictions should be as comprehensive as legally possible.²⁹ ■

Industry argument: There is no need to ban tobacco logos on non-tobacco products because they are not intended to promote tobacco sales.

Response: Brand-stretching is the use of tobacco brand names, logos, or visual brand identities on non-tobacco products, activities, or events. Internal tobacco industry documents confirm that brand-stretching is used to promote the use of a tobacco product and to circumvent advertising bans.³⁰ In response to the French ban on tobacco advertising, R.J. Reynolds (RJR) France noted, "Compared to most competitors, RJR France seems better prepared to successfully confront the new legal restrictions thanks to a larger number of available logo licensing activities, allowing a satisfactory communication continuity behind [the] Camel and Winston [brands]."³¹ Research has found that indirect advertising is a powerful tool for maintaining brand identity.³² ■

Industry argument: A tobacco advertising ban will harm the advertising industry and the economy.

Response: Tobacco advertising represents only a small fraction of the total advertising industry. In France, tobacco advertising represented 0.5% of the total advertising budget in 1990, 0.7% in the United Kingdom in 1994, and 1.8% in Belgium in 1995.²⁴ The growth in total advertising will generally compensate for the loss of tobacco advertising revenue. Based on the experience in a number of European Union countries that have banned advertising, tobacco expenditures were replaced by publicity from other sectors without revenue or net job loss.³³ ■

Industry argument: A ban on tobacco advertising will lead to other advertising bans.

Response: Tobacco, unlike ordinary consumer products, is highly addictive, carcinogenic, and inherently deadly. There is no safe level of tobacco use. Tobacco is unique in its harm to individuals, society and the economy, and banning its promotion does not establish a precedent for other products.³⁴ ■

Industry argument: If tobacco itself isn't banned, why should its advertising be?

Response: There is little doubt that if tobacco were introduced today, its sale would be illegal.³⁴ However, there are many precedents for banning or restricting the advertising of dangerous or potentially dangerous products even if these products themselves remain on the market. Examples include firearms, fireworks or pharmaceutical products. ■

Industry argument: Tobacco is a legal product, and it is the tobacco industry's right to communicate with consumers and the right of consumers to receive information.

Response: Tobacco advertising, promotion, and sponsorships disseminate information that is inherently misleading to consumers. There is no use of tobacco which does not harm the user or others exposed to tobacco smoke, and advertising associated with tobacco use and positive social or personal aspects diminishes these risks to consumers. Therefore, the FCTC and the rights of consumers to receive information require a comprehensive ban on tobacco advertising, promotion and sponsorships in line with a country's constitution or constitutional principles. ■

Industry argument: Banning sponsorship denies the public of music and cultural events which cannot exist without support from tobacco companies.

Response: In countries that have comprehensive bans on tobacco sponsorships, other sponsors have successfully re-

placed tobacco companies and brands to fund sports teams, concerts and other events.^{35, 36} Eliminating tobacco sponsorship allows for greater competition between other companies for sponsorship deals. Four years after banning tobacco sponsorship in Australia, non-tobacco corporate sponsorships of sports increased by 45%.³⁷ ■

Industry argument: Banning point-of-sale displays and advertising will encourage illicit trade by increasing price-based competition, leading consumers to choose cheaper contraband products.

Response: The absence of retail cigarette displays will reduce impulse purchases³⁸ and reduce the power of displays to in-

crease youth initiation and overall use.¹⁹ This would decrease overall demand for any tobacco product, whether legally or illegally sold. Banning retail cigarette advertising does not affect the ability of enforcement officials to identify black market sellers or legal businesses selling contraband tobacco products. In virtually all markets where they operate, manufacturers deliberately promote low-price cigarette brands to price-sensitive consumers regardless of whether product visibility is restricted or potentially banned. ■

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