



HEIKKI HIILAMO

## The Fear of Losing out

Tobacco Industry Strategies in Finland  
1975–2001



ACADEMIC DISSERTATION

To be presented, with the permission of  
the Faculty of Medicine of the University of Tampere,  
for public discussion in the auditorium of Tampere School of  
Public Health, Medisiinarinkatu 3, Tampere,  
on August 24th, 2007, at 12 o'clock.

UNIVERSITY OF TAMPERE

ACADEMIC DISSERTATION  
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Cover design by  
Juha Siro

Printed dissertation  
Acta Universitatis Tamperensis 1229  
ISBN 978-951-44-6937-4 (print)  
ISSN 1455-1616

Electronic dissertation  
Acta Electronica Universitatis Tamperensis 617  
ISBN 978-951-44-6938-1 (pdf)  
ISSN 1456-954X  
<http://acta.uta.fi>

Tampereen Yliopistopaino Oy – Juvenes Print  
Tampere 2007

"Those who cannot remember the past are condemned to repeat it."  
– George Santayana (1863–1952)



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# Abstract

This study analysed tobacco industry lobbying strategies in Finland from 1975 to 2001. Tobacco industry documents were used as a primary source of data. The study was focused on tobacco control measures in Finland, including product liability litigation against the tobacco companies between 1988 and 2001. The tobacco control implications of tobacco litigation were analysed e.g. by examining the different roles of international tobacco companies and the level of control they employed in the Finnish litigation.

The Finnish case was further highlighted through analysis of the possible linkages between tobacco industry's scientific strategies and its legal defence. With regard to tobacco control measures, the aim was to examine how global tobacco companies have tried to influence tobacco regulation in Finland. The main question was: did the tobacco companies succeed in finding a successful strategy for undermining the development of tobacco control in Finland? Finally, this study explored the validity of the tobacco industry documents by examining whether the material from the private archive of a tobacco lobbyist might augment or revise the earlier reports on tobacco industry manipulation in Finland.

This study clearly demonstrated that international tobacco companies considered the legal proceedings in Finland as a global threat. However, tobacco industry tried to play down the importance of the product liability process by portraying it as a local dispute with no international connections. The preparatory work was conducted in committees or groups, which assembled the companies' internal and external resources and were of crucial significance for the implementation of the defence. The Finnish defence was to be constructed on the same principles as in the USA. Besides using the same argumentation, meaning same terms and descriptions, for example, for general and specific causality, the witnesses were also partly the same. The proceedings revealed that the industry had concealed the health hazards of its products and, despite indisputable evidence, continued to deny them. The positions taken by the industry rocked its reliability as a social actor and thus weakened its chances of influencing tobacco policy.

The findings demonstrate that research funding was closely connected to witness development in the product liability case. By granting research funding, the industry had created a pool of experts who were willing either to testify or to recommend other potential medical expert witnesses for the industry. As many as 33 of 45 tobacco industry's medical

expert witnesses received research funding from the industry before or after the testimony. 19 of them worked in different positions as consultants for the industry. The older witnesses testified to the existence of a controversy, which they, in fact, had helped to create. Those appearing in Helsinki District court apparently downplayed the importance of their involvement with the industry. The tobacco industry funded the majority of expert witnesses appearing for it, beyond simple recompense for the time involved. This may have unconsciously influenced the testimony the witnesses gave.

The tobacco industry documents suggest that Finland was of particular interest to tobacco companies because of the country's long experience with tobacco legislation. Documents concerning Finland show that here, too, the tobacco companies have systematically sought to steer discussion away from the harmful effects of smoking and to prevent tobacco legislation. The tobacco industry activities slowed down the development and implementation of the Tobacco Act in Finland. The tobacco industry was also successful e.g. in delaying the introduction of restaurant smoking ban and class action legislation.

The tobacco documents offer first hand information on the tobacco industry strategies and their implementation. However, the documents do not always provide exact information on the outcomes of the strategies. Therefore, the documents have a shortcoming in exposing the course of events. Comparing the documents from a private tobacco industry lobbyist with publicly available tobacco industry documents relating to Finland showed that the tobacco industry documents give a comprehensive view of the general tobacco industry strategies even in such a small market area as Finland.

# Tiivistelmä

Tutkimus analysoi tupakkateollisuuden strategioita tupakkasääntelyn estämiseksi ja horjuttamiseksi Suomessa vuodesta 1975 vuoteen 2001. Pääasiallisena aineistona käytettiin tupakkateollisuuden sisäisiä asiakirjoja.

Tutkimus keskittyi tupakkasääntelyyn mukaan lukien tuotevastuuoikeudenkäynti tupakkateollisuutta vastaan vuosina 1988-2001. Tupakkaoikeudenkäynnin tupakkapoliittisia vaikutuksia arvioitiin muun muassa tutkimalla eri tupakkayhtiöiden rooleja ja vaikutusvaltaa Suomen oikeudenkäynneissä. Suomen tupakkajuttua tarkasteltiin lisäksi analysoimalla mahdollisia yhteyksiä tupakkateollisuuden tieteellisten strategioiden ja sen oikeudellisen puolustuksen välillä.

Tutkimus selvitti myös sitä, miten tupakkayhtiöt pyrkivät vaikuttamaan tupakkasääntelyyn Suomessa. Tärkein kysymys oli, onnistuivatko tupakkayhtiöt löytämään strategian tupakkasääntelyn horjuttamiseksi? Lopuksi tutkimus selvitti tupakkateollisuuden sisäisten asiakirjojen pätevyyttä analysoimalla antaako tupakkateollisuuden käyttämän konsultin oman arkiston tiedot aiheen muuttaa tai täydentää aikaisempia raportteja tupakkateollisuuden manipulointiyrityksistä Suomessa.

Tutkimuksen tuloksena oli, että kansainväliset tupakkayhtiöt pitivät Suomen tuotevastuuoikeudenkäyntiä globaalina uhkana. Yhtiöt yrittivät kuitenkin vähätellä Suomen oikeusjutun merkitystä esittämällä sen paikallisena riitana, jolla ei ole kansainvälisiä yhteyksiä. Valmistautuminen oikeudenkäynteihin tapahtui työryhmissä, jotka kokosivat tupakkayhtiöiden sisäiset ja ulkoiset voimavarat. Niillä oli ratkaiseva merkitys puolustuksessa. Puolustus Suomessa haluttiin rakentaa samojen periaatteiden varaan kuin Yhdysvalloissa. Samojen argumenttien, käsitteiden tulkinnan – esimerkiksi erityisen ja yleisen syy-yhteyden – ja samojen kuvausten lisäksi osa todistajista oli samoja kuin Yhdysvalloissa. Oikeudenkäynti osoitti tupakkateollisuuden salanneen tuotteidensa terveyshaitat kiistattomista tieteellisistä todisteista huolimatta. Edelleen oikeudenkäynti osoitti, että tupakkayhtiöt yhä kiistivät terveyshaitat. Tupakkayhtiöiden kannanotot horjuttivat niiden uskottavuutta sosiaalisena toimijana ja heikensivät niiden mahdollisuuksia vaikuttaa tupakkapolitiikkaan.

Tutkimus osoitti, että tutkimusrahoituksen myöntäminen oli läheisessä yhteydessä todistajien hankkimiseen tuotevastuuoikeudenkäynnissä. Tutkimusrahoituksen avulla tupakkateollisuus oli luonut asiantuntijaverkoston, johon kuuluvat lääketieteen tutkijat

olivat valmiita todistamaan tupakkateollisuuden puolesta tai suosittelemaan muita todistajia. Tupakkateollisuuden 45 lääketieteellisistä asiantuntijatodistajasta 33 oli saanut tupakkateollisuudelta tutkimusrahoitusta ennen tai jälkeen todistamisen. Heistä 19 todistajaa oli työskennellyt tupakkateollisuuden konsultteina. Vanhemmat teollisuuden asiantuntijoista todistivat sellaisen tieteellisen kiistan olemassaolosta, jota he itse olivat olleet luomassa. Helsingissä todistaneet asiantuntijat vähätelivät yhteyksiään tupakkateollisuuteen. Tupakkateollisuus palkitsi ainakin osaa asiantuntijoista hyvin avokätisesti. Tämä on voinut vaikuttaa todistajalausuntojen sisältöön.

Tupakka-asiakirjat viittaavat siihen, että Suomi oli tupakkayhtiöiden erityisen kiinnostuksen kohteena maan pitkäaikaisen tupakkasääntelyn vuoksi. Suomea koskevat asiakirjat osoittivat, että tupakkayhtiöt pyrkivät Suomessakin ohjaamaan keskustelun pois tupakan haitallisuudesta ja torjumaan tupakkalainsäädännön. Tupakkateollisuuden vaikutamisstrategiat onnistuivat viivyttämään uuden tupakkalain kehittämistä ja toimeenpanoa Suomessa. Tupakkateollisuus onnistui myös torjumaan ryhmäkannelainsäädännön sekä hidastamaan ravintoloiden tupakointikieltoja.

Tupakka-asiakirjat sisältävät ensikäden tietoja tupakkateollisuuden strategioista ja niiden toimeenpanosta. Asiakirjat eivät kuitenkaan aina tarjoa tarkkoja tietoja strategioiden tuloksista. Siksi asiakirjoissa on puutteita, jos yksin niitä käytetään tapahtumien kulun kuvaamiseen. Tupakkateollisuuden lobbarina toimineen henkilön yksityisen arkiston tietojen vertaaminen julkisesti saatavilla oleviin tupakka-asiakirjoihin osoitti, että tupakka-asiakirjat antavat yleisellä tasolla kattavan kuvan tupakkateollisuuden strategioista niinkin pienestä markkina-alueesta kuin Suomesta.

# Abbreviations

BAT	British American Tobacco
CSR	Corporate social responsibility
CTR	Council for Tobacco Research
ETS	Environmental tobacco smoke
H & K	Hill and Knowlton
IFAQ	In-flight air quality
LTDL	Legacy Tobacco Documents Library
MSA	Master Settlement Agreement
NMA	National Manufacturers' Associations
OCR	Optical character recognition
PM	Philip Morris
RJR	R.J. Reynolds Tobacco Company
TDO	Tobacco Documents Online
TIDR	Tobacco industry document research
TIRC	Tobacco Industry Research Committee
USA	United States of America

## Original communications

- I Hiilamo HT. Tobacco control implication of the first European product liability suit. *Tobacco Control* 2005,14:22–30.
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- III Hiilamo H. Tobacco industry strategy to undermine Tobacco Control in Finland. *Tobacco Control* 2003,12:414–423.
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# 1. Introduction

On October 7, 1958, Bo Holmstedt, a Swedish docent of pharmacology, wrote a letter to Dr. Clarence Cook Little, Scientific Director of Tobacco Industry Research Committee (TIRC) in New York, asking if TIRC had "paid attention to the possibility of administering drugs by cigarette smokes" (Holmstedt 1958). Holmstedt wrote "During the past ten years I have investigated this possibility. – In connection with a great number of investigations going on presently about cancer and smoking this is perhaps a point worth bearing in mind." In a paper attached to the letter, Holmstedt and his colleague Olle Wallén noted that inhalation of smoke from burning herbs has evidently been used for therapeutic or intoxicating purposes from ancient times (Holmstedt and Wallén 1959).

It is not surprising that Holmstedt, who co-operated with the Swedish tobacco company, approached an institution in the United States of America (USA). Perhaps the Swedish docent had great prospects in mind. During the Second World War, cigarettes were distributed free of charge and tobacco companies considered it a patriotic duty and contribution to the war effort. Use of tobacco among World War II soldiers had an extraordinary effect on relieving the strains of war, but hooked an entire generation into nicotine addiction. The American tobacco markets were characterised by the dominance of a handful of multinational companies.

The manufacture and commercialisation of tobacco products reached a zenith right after the war. Over time it became a considerable source of revenue as local, state, and federal government imposed increasing consumption taxes. For a long time this created reluctance in the part of elected officials to further regulate tobacco marketing and sales.

The idea of administering medicines by means of cigarettes was not incomprehensible in the late 1950s. Actually, most early European physicians subscribed to the Native American belief that tobacco can be an effective medicine. By the early 20th century, with the increase in cigarette smoking, research articles addressing the health effects of smoking began to appear in scientific and medical journals. In 1930, researchers in Cologne, Germany, published results suggesting a statistical correlation between cancer and smoking (Proctor 1997). Eight years later, Dr. Raymond Pearl of Johns Hopkins University reported that smokers do not live as long as non-smokers (Pearl 1938). However, the general public knew little of that growing body of statistics.

In the early 1950s, scientists began to publish more studies suggesting that cigarette smoking causes lung cancer and other diseases (Kluger 1996). For example, in 1950, Ernst Wynder and Evarts A. Graham showed that smokers had a greater risk of lung cancer than non-smokers did (Wynder and Graham 1950). In 1952, Reader's Digest published "Cancer by the Carton," an article detailing the dangers of smoking. The effect of the article was enormous: similar reports began appearing in other periodicals, and the smoking public began to take notice. The idea of using cigarettes as a means to heal or ameliorate illnesses would become obsolete very soon.

In 1953, Wynder, Graham and Croninger (1953) showed that mice with cigarette "tar" painted on their backs were more likely to develop malignant tumours than control mice that were not painted with tobacco tar. These results were interpreted as important evidence that smoking could cause cancer in humans, and they were widely reported in the media. Cigarette sales declined for the first time in over two decades.

The directors of the major tobacco companies began to feel the pressure. While the results of Wynder and Graham were being discussed in the media, the public relations firm of Hill and Knowlton (H&K) was hired by the tobacco companies to help them devise a public relations campaign (Pollay 1990). The president of American Tobacco Company invited the presidents of the other major tobacco companies to meet in New York to develop a campaign to counter the negative publicity surrounding cigarettes. The meeting took place on December 15, 1953, at the Plaza Hotel in New York City, and was attended by the presidents of American Tobacco Company, Benson & Hedges, Brown and Williamson, P. Lorillard, Philip Morris (PM), R. J. Reynolds (RJR), and U.S. Tobacco, as well as the chief executives of Hill and Knowlton.

The tobacco industry made two strategic decisions. Firstly, the industry began an attempt to develop safer cigarettes while heavily promoting filter cigarettes and making claims about less tar. Secondly, the companies joint forces for the specific purpose of denying the health hazards of smoking. The later decision was of paramount importance to the debate on tobacco. While competing of marked shares the tobacco companies joined forces in defending against the health claims of their products.

Following a recommendation from H & K the tobacco companies jointly established a research committee in 1954 known as the Tobacco Industry Research Committee (TIRC) (later renamed the Council for Tobacco Research [CTR] in 1964) that would sponsor independent scientific research on the health effects of smoking. In addition, an announcement describing the formation of the research committee was placed as an advertisement in newspapers and magazines nationwide. "A Frank Statement to Cigarette Smokers" appeared in 448 newspapers in 258 cities, reaching an estimated circulation of

43,245,000. The advertisement stated: "We accept an interest in people's health as a basic responsibility, paramount to every other consideration in our business ... We always have and always will cooperate closely with those whose task it is to safeguard the public health."

The industry stated publicly that the purpose of TIRC was to fund independent scientific research to determine whether there was a link between cigarette smoking and certain diseases. Actually, the purpose was the contrary: to convince the public that the hazards of smoking had not been definitively proven. For example, in 1970, H. Wakeham, the scientific director for PM discussed the role of the CTR in a letter to PM's CEO J. F. Cullman III: "It has been stated that CTR is a program to find out 'the truth about smoking and health'. What is truth to one is false to another. CTR and the Industry have publicly and frequently denied what others find as "truth". Let's face it. We are interested in evidence which we believe denies the allegation that cigarette smoking causes disease" (Wakeham 1970).

The public relation message was that there was a "controversy" as to whether smoking is dangerous. The tune in Bo Holmstedt's letter gives grounds to assume that even Holmstedt was aware that TIRC was not as independent as it claimed to be. Later, CTR funded "special projects" whose research results could be used by industry lawyers to defend tobacco companies in court and to influence public opinion and public policy (Glantz et al. 1996).

The tobacco industry was challenged not only by decreasing cigarette sales but also in court. In March 1954, the first product liability suit against tobacco companies was filed in St. Louis, Missouri. The first wave of product liability lawsuits against tobacco companies then originated ended in September 1978. During that time, 125 reimbursement cases were filed, all without exception ending in defeat for the plaintiffs. The defence for the cases in the first wave was built on general causality: smoking does not induce disease.

Expansion of product liability in general triggered off a second wave of claims. In almost all US states, liability for damages was expanded, when the causation issue switched from contributory negligence to comparative negligence. At the same time, scientific proof of the dangers of smoking began to mount, and the industry found it more difficult to deny the link between smoking and disease. Gradually, the tobacco companies began to admit that there was a statistical link between smoking and disease, and that smoking was a hazard to health.

The Rose Cipollone case, which was filed in 1983, is the best known of the second wave lawsuits, and in many respects served as an example for the product liability case in Finland. Instead of general causality, the defence now appealed to a specific causality, in

other words, to whether smoking had induced the disease of this particular smoker. The court of first instance ruled the case partially in favour of the plaintiff: the tobacco company was ordered to pay US\$400,000 in damages to Rose Cipollone's husband after her death from lung cancer during the legal proceedings. Later this case, too, dried up as it became too expensive for the plaintiff's lawyers to continue litigation. The tobacco companies' defence had succeeded in warding off two waves of lawsuits by appealing to the fact that the plaintiff herself had been the cause of the harm: nobody had forced her to smoke.

In 1988, a personal injury case was filed in the Helsinki District Court against tobacco companies based on the very arguments expressed during the second wave of tobacco litigation in the USA. Subsequently, two criminal cases were launched in Espoo and Helsinki. For a long time, Finland remained the only country outside the USA and Australia where a claim against tobacco companies was litigated in court. Bo Holmstedt was one of the defence's medical expert witnesses when the product liability case was processed in the Helsinki District Court. At the time, hardly any information was available on the tobacco industry's defence strategies and connections between defence's medical expert witnesses and the tobacco companies. The situation changed dramatically during the 1990s.

A new phase in tobacco litigation began, when the individual states of America joined in the lawsuits in 1994. State of Minnesota together with Blue Cross and Blue Shield of Minnesota (a private health insurance company) launched a legal action against the tobacco industry to recover smoking-related health care costs for Medicaid. The action was very soon followed by more than 40 other states.

Documents proving that the tobacco companies knew of the addictive nature of nicotine gradually came into the hands of the plaintiff's attorneys. The documents destroyed the defence's argument of a voluntary health risk. At the same time, directors of tobacco companies had assured the consumers and the US Congress that nicotine was not addictive. Addiction turned out to be the leading theme in the third wave of lawsuits.

A major part of the documents were written by company scientists, consultants, lawyers, top executives, other employees, and also by outside organisations associated in many ways with the tobacco industry, such as public relations companies, advertising and law firms, and research laboratories. Under the US legal system, when the plaintiff brings a lawsuit against the defendant, each may request to see the other party's internal documents relating to the case. This procedure is known as "pre-trial discovery". The process is also called full discovery as the parties may ask for documents with only minor links to the case. If one or the other side refuses to produce the requested documents, the judge will decide which documents can be withheld or must be released.

These first sets of documents gave the attorneys insight into what kinds of documents to go after. In the course of the pre-trial discovery on lawsuits between the states and the tobacco companies, millions of tobacco industry documents were “discovered”. Minnesota State, for instance, demanded discovery of all documents related to over a dozen categories, including: smoking and health, “light” and “mild” cigarettes, company research on the properties and effects of nicotine and addiction, company research on how to deliver potent levels of nicotine to the smoker, research on other ingredients, both naturally occurring in and added to tobacco, tobacco industry advertising, marketing or promotion of cigarettes, industry studies on the sociology and psychology of smokers, and destruction and disposal of secret documents by the tobacco companies (Hirschhorn 2005).

The documents were not produced without a struggle (Collin, Lee and Gilmore 2003). It took a decision by the US Supreme Court to permit their entry in the trial. The companies tried to keep key documents out of the discovery behind the judicial concept of “attorney-client privilege” but the courts ruled that in most cases this was merely an attempt to hide the evidence.

With no determination of guilt or innocence, the companies agreed to pay a large sum of money to State of Minnesota, and agreed further to make public all the documents that had been discovered in that case and in any subsequent lawsuit brought in the United States (Derthick 2004). Within a few months, all the other US states and the industry concluded a similar deal, called the Master Settlement Agreement (MSA): the states agreed not to sue the tobacco industry, though private individuals still could, and the industry agreed to pay the states a large sum of money (some of it to fund a national anti-smoking campaign), and to release to the public all the documents discovered in trials up to 1999, both in hard copies and on the Internet. British American Tobacco (BAT) was the only company exempted from maintaining an Internet archive but its US subsidiary, Brown & Williamson, was not. Under the terms of the MSA there will be ongoing additions and updates, and documents filed in discovery in new US lawsuits must be added to company websites until 2010. The depositories will remain open to the public until 2008.

With new documents added since signing of the MSA, the available documents include information dated as recently as 2003. Copies of the tobacco industry documents are kept in two warehouses, one in Minnesota, USA, and the other in Guildford, UK. A legal services firm manages the Minnesota Depository, and access to the documents is easy. BAT manages the Guildford Depository, and access is exceptionally difficult. While most of the Minnesota collection is also available on the Internet, documents from the BAT are not, except for a small subset used in the Minnesota trial, and a few small collections copied from Guildford by tobacco-control groups and governments. However, the number

of BAT documents retrieved from Guildford and made available electronically will increase, thanks to the efforts of the Guildford Archiving Project (<http://bat.library.ucsf.edu>) (Collin, Lee and Gilmore 2004, Lee, Gilmore and Collin 2004a). The retrieving is expected to be finalised by mid 2007.

The disclosure of millions of pages of industry documents provided a unique opportunity to analyse and assess industry conduct (MacKenzie, Collin and Lee 2003, Hirschhorn 2005). Through disclosure of these documents it is possible to analyse – among other topics – the tobacco litigation in Finland, including Bo Holmstedt’s role as a scientific expert witness, as well as expose the strategies employed by the tobacco industry during the litigations.

## **2 Review of the literature**

### **2.1 Tobacco industry and tobacco control in Finland**

In the 1920s, cigarette consumption in Finland was the highest in the world (Hakala and Waller 2003). At the beginning of the 1950s as many as 76 percent of men and 13 percent of women smoked. In 2005, daily smoking among people in the 15–64 year age group was 22 percent, of these 26 percent were men and 18 percent were women. In the early 2000s about 5 000 people die annually of tobacco-related diseases in Finland with a population of 5.3 million. Around 1.2 million working days are lost to sickness absence and 600,000 visits to doctors are made by smokers (Patja and Vartiainen 2003).

Finland has a long history on tobacco control policy development (Table 1). The health authorities have taken active measures to reduce smoking since 1950s. The spread of new scientific information prompted interest in tobacco control in Finland. In 1961 parliament called for immediate action to pass a law to prohibit the sale of tobacco products to minors, to curtail tobacco advertising and to take other systematic measures to reduce smoking levels.

The process faced political resistance. Various expert bodies, committees and boards were appointed (Hakala and Waller 2003). The results from these preparations were met with determined opposition from the tobacco industry, the Ministry of Finance and the Ministry of Trade and Industry. Consequently, fiscal policy and commercial interests dominated the national tobacco policy until the mid-1970s.

However, health concerns gradually gained ground. At the beginning of the 1970s, an exceptionally grave epidemic of cardiovascular diseases emerged in Finland, particularly among males (Puska, Korhonen and Uutela 1997). Moreover, cancer rates among men, lung cancer in particular, were distressingly high. It was obvious that smoking was a major factor behind the poor health situation in Finnish men, contributing both to cardiovascular disease and cancer rates. At this point of time, more than half of all men smoked. In order to confront these serious threats to public health, a number of preventive measures and policies were initiated.

**Table 1.** Tobacco control activities in Finland from 1929 to 2007

Year	Event
1929	Nordic Congress of Pathologists announces that lung cancer mortality in Finland has increased.
1952	Cancer Society of Finland establishes a population-base nationwide cancer registry.
1960	Finnish medical associations announce that smoking seriously harms public health.
1961	Unanimous call by parliament to cut smoking, ban sales to young people, restrict tobacco advertising.
1963	Members of parliament call for prohibition of tobacco advertising on television.
1964	Government appoints a Tobacco Committee to clarify activities to reduce smoking.
1966	The Tobacco Committee proposes research and education activities, higher taxation on tobacco, regulation of tobacco advertising and smoking restrictions in public places.
1968	Finnish medical students ask the Ministry of Social Affairs and Health for one percent of the tax revenues from tobacco to treat diseases caused by smoking and to cut smoking.
1969	Voluntary agreement of the tobacco companies to avoid tobacco advertising targeted at adolescents.
1971	Ban on tobacco advertising on television.
1972	The Ministry of Social Affairs and Health nominates a Tobacco Commission to draft legislation aimed at reducing smoking.
1973	The Tobacco Committee states that 2 percent of the tobacco tax should be allocated to tobacco control.
1977	Tobacco Act <ul style="list-style-type: none"><li>– prohibition of all forms of tobacco advertising</li><li>– obligatory warnings to be placed in tobacco packages</li><li>– maximum limits set on harmful substances</li><li>– prohibition of smoking in public places (including school buildings)</li><li>– sale of tobacco products to persons obviously below 16 years prohibited</li><li>– 0.5% of tobacco tax revenues allocated to anti-smoking research and education.</li></ul>
1978	Total advertising ban in force.
1978	The Ministry of Social Affairs and Health nominates a Tobacco Policy Committee to draft a program on tobacco policy.
1988	The first product liability case against tobacco industry in Europe.
1991	The Ministry of Social Affairs and Health begins a preparatory process to amend tobacco legislation toward smokefree workplaces.
1991	Product liability law to apply also to tobacco products.
1992	First ever criminal law suit brought against five representatives of the tobacco industry.
1993	Espoo City Court in Finland dismisses criminal case against tobacco industry representatives.
1995	Amendment to Tobacco Act <ul style="list-style-type: none"><li>– prohibition of smoking at all work sites</li><li>– sale of tobacco products to persons below 18 years prohibited</li><li>– prohibition of all forms of sales promotion</li><li>– sale of smokeless tobacco prohibited</li><li>– smoking prohibited also in school yards.</li></ul>

- 1999 Provisions to smokefree areas in restaurants.
- 2000 ETS included in the national list of carcinogenic substances.
- 2000 Smoking in restaurants restricted.
- 2001 Supreme Court rules that tobacco companies are not liable for compensation.
- 2007 Total ban on restaurant smoking enforced.

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Sources:

Hakala K and Waller M eds. (2003): Nordic tobacco control – towards smokefree societies. Nordic Council on Ministers. Copenhagen.

Puska P, Korhonen HJ, Uutela A (1997): Anti-Smoking Policy in Finland. In Smokefree Europe. A Forum for Networks. Finnish Centre for Health Promotion, Jyväskylä.

Some of the early measures to reduce smoking included informing the public about the health hazards of smoking, respective training of health personnel and early attempts to develop legislation (Puska, Korhonen and Uutela 1997). The measures were delayed by the tobacco industry opposition to all tobacco control initiatives (Aurejärvi 2004). In public statements, the representatives of the tobacco industry objected e.g. to tobacco advertising bans. Furthermore, the industry also refused to place health warning labels on cigarette packages.

In 1972, the Ministry of Social Affairs and Health initiated a plan to regulate the marketing of tobacco with the aim to reduce tobacco use. At the same time, the recommendation of the Nordic Council to restrict tobacco advertising lent legitimacy to e.g. the national tobacco advertising ban (Hakala and Waller 2003).

A major obstacle to tobacco control efforts was raised by the tobacco industry who denied all health hazards of its products. However, owing to Finnish researchers who were actively involved in research in smoking and health, legitimacy was gained for tobacco control. The public health specialists were able to fend off tobacco industry arguments on health issues. In 1972 the North Karelia Project was launched in an eastern province of Finland to carry out an intensive national pilot intervention to reduce the high rates of cardiovascular disease. Smoking was one of the three main target risk factors of the project.

Despite resistance from the tobacco industry the intensive efforts to pass anti-smoking legislation succeeded in 1977, when an extensive Tobacco Act was adopted by parliament, preceded by high taxes imposed on tobacco products to cut down consumption. Since then, Finland has been in the forefront of international progress with respect to health promoting tobacco legislation (Hakkarainen 2000, Hiilamo 2004).

The Tobacco Act prohibited e.g. all forms of tobacco advertising. However, the industry tried to circumvent the advertising ban e.g. through sponsoring sport events (Hara-Eteläharju 1990). In 1978, a special health education office was established in the country.

Later, the office became a focal point for national anti-smoking policy monitoring, including the tobacco advertising ban.

The debate on tobacco issues was promoted by the launch of Europe's first product liability case against tobacco industry in 1988. The tobacco industry tried to label the court case as misuse of the legal system (Aurejärvi 2004). However, the process led to legislative changes. In 1991, the Finnish parliament, contrary to the proposal put forward by the government, decided that the new, strict product liability law would apply also to tobacco products. Subsequently, the national air carrier Finnair announced a plan to become completely smokefree. In public statements, the tobacco industry tried to convince the airline that the harms of ETS could be resolved through good ventilation systems.

However, it took several years before the initiative for a new tobacco law regulating ETS resulted in legislative action. While denying also the health hazards of ETS the tobacco industry claimed that new regulation was not needed in Finland. The industry launched an advertising campaign emphasising tolerance. The revision of the Tobacco Act in 1995 introduced restrictions on smoking in the workplace and thus ensured the reduction of exposure to ETS. The revised Act prohibited smoking at all worksites and banned the sale of tobacco products to persons below 18 years as well as all forms of sales promotion. ETS was included in the Tobacco Act in 2000 as a carcinogenic substance. Finland was the first country in the world to include ETS in national legislation as a carcinogen. A year later, an amendment to the Act incorporated restaurants into the regulations. However, it took until June 2007 before a total ban on restaurant smoking came into force.

The largest multinational tobacco companies in the world, PM, BAT and RJR, have dominated the Finnish tobacco market during the past decades. Amer-Tupakka (Amer Tobacco, a licensed manufacturer of PM brands) controlled about 75% of the market, BAT Nordic 15% and Altadis (originally privately owned by Rettig, then RJR and then Seita) 10%. Amer-Tupakka had a licence agreement with PM since 1961, and the licence was valid until the end of 2005. It is notable that the first product liability litigation against tobacco companies outside the USA and Australia was launched in Finland in 1988 (Aurejärvi 2004). Referring to the dominance of the US tobacco companies within the country, Finland has been described as the 51st state in tobacco issues.

The regulatory framework in Finland may have offered the tobacco industry almost laboratory-like circumstances to find out how tobacco companies can get along with comprehensive legislation and influence its development. Finland has been an arena where the industry has been able to operate in a tighter legal environment and to anticipate how to act as restraints develop elsewhere and internationally (Hakala and Waller 2003). Failure in the small Finnish market would hardly have much effect on international sales. Instead,

experience gained in Finland could show to the tobacco industry how to prevent threatening legislation elsewhere.

As demonstrated above, the tobacco industry has opposed tobacco control measures in Finland. These attitudes are clearly visible from its public statements (Aurejärvi 2004). However, there is very little published information available on the tobacco company strategies to influence tobacco control in Finland. The analysis of tobacco debate in Finland by Hakkarainen (2000) construes tobacco control in Finland as a battle between the industry and “the health front”. Based on interviews and public sources, the analysis was conducted on a general level without more detailed information on tobacco industry strategies or their outcomes. Hemmo (1990) analysed critically the proceedings of the product liability case in the Helsinki District Court while the case was on appeal. Hemmo concluded that the District Court was unable to assess the credibility of the tobacco industry’s medical expert witnesses. Aurejärvi (2004), the pro-bono attorney in the product liability case, analysed the product liability case in a critical book which concluded that the court decision was simply wrong. Both Hemmo and Aurejärvi based their analysis mainly on the publicly available court records with a focus on legal arguments. Using material on media outcomes, a report by Hara-Eteläharju (1990) demonstrated that a particular Philip Morris sponsoring project was aimed to circumvent the tobacco advertising ban in the late 1980s.

## **2.2 Tobacco industry document research**

In the following, the literature based on tobacco industry document research (TIDR) will be reviewed, i.e. peer-reviewed articles quoting tobacco industry documents. The history of TIDR is fairly short. The first tobacco industry internal documents came into daylight through the above-mentioned Cippolone case in the 1980s. In 1994, a clerk preparing an inventory of internal papers in anticipation of new lawsuits against the cigarette company Brown & Williamson (owned by BAT) turned over approximately 4000 internal documents to University of California, San Francisco researchers with the motivation that the documents were revealing. A first report on these documents was published the following year (Glantz et al. 1995).

In 1998, six million once secret documents, over 35 million pages, became available to the public as a result of the legal action described above. The documents came from the national and international offices of seven cigarette manufacturers doing business in the

USA, and two affiliated organisations: PM Incorporated, R.J. Reynolds Tobacco Company (RJR), Brown & Williamson Tobacco Corporation, BAT Industries (BAT), Lorillard Tobacco Company, the American Tobacco Company, the Liggett Group, the Tobacco Institute, and the Council for Tobacco Research.

The efforts in TIDR were intensified towards the end of the 1990s and early 2000s. Altogether, 173 English language papers indexed in Medline citing tobacco industry documents were published between 1995 and 2004 (Carter 2005). The MSA stimulated publication: 93% of papers, primarily reports of tobacco industry documents, were published after 1998.

TIDR has focused on operations and internal strategies of the tobacco companies over a wide range of topics. A list compiled of peer-reviewed papers citing tobacco documents included 387 references under 10 subcategories (Hirschhorn 2006). Document analysis undertaken includes academic research on the extent of industry deception, e.g. denials of addiction, industry attempts to manipulate scientific research, industry attempts to create a “debate” on health impacts of smoking, industry efforts to influence national legislation, economics (taxation, smuggling and health costs), anticipated impacts of tobacco control legislation, industry mobilisation of tobacco farmers and other labour groups, attacks on epidemiology and epidemiologists, industry attempts to undermine tobacco control initiatives and individuals, donations to and sponsorship of government initiatives, industry sponsorship of arts, sports, and other public organisations.

The reports generally refer to tobacco industry as if there were no conflicting interests among the companies. The companies compete for market shares but in health questions they have joined forces in defending the marketing freedoms of the industry.

When assessing the results from TIDR, it is important to note the evolution of the research methods and thereby the evolution of the quality of the research (Carter 2005, MacKenzie, Collin and Lee 2003). TIDR is actually a more or less mixed bag of information. The release of over 35 million pages of internal tobacco industry documents in 1998 surely provided tobacco control researchers and advocates with unprecedented insight into the industry's motives, strategies, tactics, and data (Glantz 2000, Nero 2003). The spirit of the moment was captured in a quote from Simon Chapman (2000), editor of Tobacco Control journal in 2000: “Those of us who have spent most of our working lives refining retorts to industry claims that it is not interested in marketing to children, that nicotine is not addictive, that it believes the jury is still out on disease causation or that smoking bans in restaurants will force mass closures, now have reams of examples of the industry saying just the opposite.”

The emphasis on secrecy, urgent tone, and dramatic language used in some early tobacco industry document reports seems to telegraph inherent importance and trustworthiness, implicitly defining TIDR as a special kind of research with unique reporting standards (Carter 2005). These patterns may have arisen partly from the initial "forbidden fruit" nature of the documents. Given the enormous numbers of documents that became available, the collections were described as a treasure trove of information for tobacco control research and advocacy, or a quagmire of quantity (Balbach and Barbeau 2005). Yet the first published work on tobacco document research hardly described search or analysis strategies (Carter 2005). Research was merely a conduit of information contained in the documents. Researchers usually mentioned only that they located "relevant" documents. In the early years, TIDR was mainly about describing the content of the documents around particular tobacco control issues.

The earlier terminology used to discuss analysis borrowed loosely from interpretive or constructivist research. Carter (2005) has noted that the treatment of industry documents in earlier research seemed to fall along a continuum from researcher as conduit to researcher as constructor. Most of the published reports contained elements of both treatments, but in a general sense, there was progression away from conduit and towards constructor. When the researcher was positioned as a passive conduit, documents were used as straightforward nuggets of general truth. When the researcher was positioned as an active constructor, documents were treated as problematic, complex sources of specific information that needed a context to be understood, and readers were made aware of the way in which the researcher had constructed their account of the past.

Most of the reports from TIDR so far have been based on tobacco industry documents only, i.e. the reports have not attempted to e.g. compare the strategies described in the documents with material portraying the outcomes of the strategies. In every lobbying effort it is possible to identify three consecutive phases: planning of the strategy, implementation and outcome. The outlined strategies do not always turn into action. Specific plans may have been produced to promote projects and obtain funding from inside the company. This flaw may also apply to internal reports on strategic outcomes. So far, only very few authors have evaluated the trustworthiness of the documents e.g. by comparing them with other sources (Kluger 1996, Neuman, Bitton and Glantz 2002, Muggli, Hurt and Becker 2004).

When assessing the results from TIDR it is clearly visible that more recent reports treat the documents as problematic, complex sources of specific information that need a context to be understood, and readers must be made aware of the way in which the researcher has constructed their account of the past.

In the following, earlier research on tobacco industry strategies is reviewed on ten areas (Hirschhorn 2005, 2006):

- Smoking and health
- Environmental tobacco smoke (ETS)
- “Light”, “mild” and “thin” cigarettes
- The properties and effects of nicotine and research on addiction
- Research on additives in tobacco products
- Marketing of tobacco products
- Economics and taxation
- Industry tactics for resisting public policy on health
- Litigation
- Strategies outside the USA.

The purpose here is to first identify tobacco industry strategies aimed at influencing tobacco regulation and then to study whether these strategies have been subsequently employed in Finland. It is expected that the most relevant areas of TIDR for the purpose of this study concern ETS, litigation, industry tactics for resisting public policy on health and strategies outside the USA.

## **2.3 Smoking and health**

The initial interest in the release of the tobacco industry documents concerned tobacco’s health hazards. The early TIDR focused naturally on disclosures of what the companies knew about the health impacts of smoking. For litigation purposes, it was essential to know when companies knew about health hazards. Indeed, the largest group of released documents dealt with the effects of tobacco on health, indicating that senior scientists and executives within the cigarette industry knew about the cancer risks of smoking as early as by the 1940s, and by the mid 1950s, were aware that smoking could cause lung cancer (Cummings, Morley and Hyland 2002). The tobacco industries’ own research with animals uncovered the cancer-causing effects of tobacco (Hammond, Collishaw and Callard 2006). Consequently, the industry actually tried to destroy the evidence of these findings by shipping incriminating documents to company offices overseas, where they might not be found by US plaintiffs and courts (Francey and Chapman 2000), and by closing down company laboratories and firing scientists conducting this kind of research (Hirschhorn

2005). At the same time, the industry leaders went into great lengths to deny all health hazards of tobacco.

Health hazards are most often discussed in terms of risk. Research findings provide the basis for risk estimates. However, research findings on risks are subject to interpretation and to the social construction of the evidence. Bero (2005) identifies six tobacco industry strategies to manipulate data on risk:

1. Fund research that supports the interest group position.
2. Publish research that supports the interest group position.
3. Suppress research that does not support the interest group position.
4. Criticise research that does not support the interest group position.
5. Disseminate interest group data or interpretation of risk in the lay press.
6. Disseminate interest group data or interpretation of risk directly to policy makers.

Ever since the late 1950s, the tobacco industry has made intensive efforts to attack and refute individual scientific studies (Yano 2005). In addition, the industry has devoted resources to manipulate scientific methods and regulatory procedures to its benefit. The tobacco industry has e.g. played a role in influencing the debate around "sound science," standards for risk assessment, and international standards for tobacco and tobacco products. In the early 1990s, the tobacco industry launched a public relations campaign about "junk science" and "good epidemiological practices" and used this rhetoric to criticise government reports, particularly risk assessments of ETS (Yach and Bialous 2001, Givelber and Strickler 2006). The industry also developed a campaign to criticise the technique of risk assessment of low doses of a variety of toxins, in collaboration with the chemical, petroleum, plastics, and chlorine industries (Bero 2005).

Tobacco research by outside scientists supported by the industry excused tobacco as a direct cause of ill health (Waerner 1991). Tobacco companies, through their law firms and the industry's propaganda arm, the Tobacco Institute, hired scientific consultants and journalists (Muggli, Hurt and Becker 2004) (who often did not reveal their links to the industry), with a duty to write articles and testify before government committees, deny that cigarette smoking was a cause of disease in smokers, or that tobacco smoke harmed non-smokers exposed to the fumes. The activity concerned especially the health effects of ETS (Garne et al. 2005). The campaign to manipulate science was taken to all market areas.

TIDR has been conducted in scientific campaigns, e.g. in Germany (Hirschhorn 2000, Grüning, Gilmore and Mckee 2006) and Asia (Tong and Glantz 2004). Tobacco industry sought to influence science and scientists in Germany through smoking and health research programs organised both separately by individual tobacco companies and jointly through

their German trade organisation. The strategy was successful in developing an extensive network of scientists and scientific institutions with tobacco industry links.

The tobacco companies, together with their information and public relations agencies, also staged scientific conferences in which their consultants could “keep the controversy alive” (an often repeated quotation about smoking and health), and infiltrated scientific conferences on smoking and health to promote the “controversy” (Muggli and Hurt 2003). The evidence of tobacco industry’s effort to manipulate led to intensive debate on the ethics of tobacco industry’s research funding and conflict of interest disclosures (Goldstein 1999, Chapman and Shatenstein 2001, Chapman 2005, Thomson and Signal 2005). Furthermore, the evidence of tobacco industry manipulation of science has been used to question the adequacy of current journal policies regarding competing interest disclosures and the acceptability of academic research funding from the tobacco industry (Bero, Glantz and Hong 2005).

## **2.4 Environmental Tobacco Smoke**

“Keeping the controversy alive” was especially important for tobacco industry with regard to passive smoke, also known as ETS (Smith and Phillips 1996, Hirschhorn 2005). If smoking harms only the smoker, the industry can, and does, defend itself in court and in regulation by saying it is a matter of individual choice. But if it is proved that tobacco smoke harms the non-smokers (children included), then regulation of smoking in public places would probably ensue.

There is a wealth of evidence detailing how the tobacco companies obscured the solid evidence of the harm ETS causes, including evidence from their own laboratories (Drope and Chapman 2001, Diethelm, Rielle and Mckee 2005, Schick and Glantz 2005a). The industry knew that the sidestream smoke is more dangerous than the mainstream smoke (Schick and Glantz 2005b). Notwithstanding, the industry attacked immediately when the first report from Japan was published in 1981, containing evidence that non-smoking spouses of smokers had a higher risk of lung cancer (Hirayama 1981, Trichopoulos et al. 1981, Yano 2005). The most intensive attack, however, was targeted at the US government Environmental Protection Agency risk assessment of ETS in 1993 (Muggli, Hurt and Repace 2004).

The tobacco industry went into great lengths to battle the ETS issue worldwide via its own research, camouflaged as legitimate, unbiased scientific investigation (Muggli, Hurt

and Repace 2001). Tobacco companies established a global network of consultants and specialist whose aim was to criticise the evidence of the health hazards of ETS (Assunta et al. 2004, Barnova and Glantz 2006) and to influence public opinion accordingly (Muggli, Hurt and Blake 2003). The ETS consultants program was shaped to protect the industry from international threats of smoking restrictions. Moreover, the program was used to promote a scientific backdrop supporting the industry's position on ETS that differed from regulatory agencies and published scientific research (Drope and Chapman 2001). The network covered not only the USA and Europe but extended to other markets e.g. Asia and Latin America (Assunta et al. 2004, Barnova and Glantz 2006). The scientists testified before US congress and other important regulatory bodies, published articles in scientific journals, and participated in scientific conferences.

Sponsoring studies on in-flight air quality (IFAQ) was one of the tactics the tobacco industry employed in attempts to reverse or delay implementation of in-flight smoking restrictions (Neilsen and Glantz 2004). In 1988, the industry funded an IFAQ study for the Scandinavian airline SAS. Before the report was delivered to the airline, however, industry lawyers and scientists deleted results unfavourable to the industry's position, and the published version of the study further downplayed the results.

The industry also supported groups – including e.g. hospitality industry (Bearlove, Bialous and Glantz 2002) and gambling industry (Mandel and Glantz 2004) – that were critical to smoking restrictions based on ETS.

## **2.5 “Light”, “mild” and “thin” cigarettes**

When health concerns related to smoking were first raised in the 1950s, cigarette manufacturers responded by introducing filtered cigarettes and cigarettes with less tar (Kozlowski and O'Connor 2002). In 1967, the US Federal Trade Commission began a program to test cigarettes for tar and nicotine yields in cigarette smoke.

The tobacco documents make public that the cigarette companies knew before the time of the introduction of the products that so-called “light” cigarettes, which promised less tar and nicotine in response to smokers’ worries about health, were in fact being smoked more often and more intensely by smokers to compensate for the lower nicotine.

A “smoking” machine, whose standards and calibrations are set by a committee of the International Organisation for Standardisation, measures nicotine and “tar”. This committee was advised and dominated by experts from the tobacco industry who understood that the

machine does not smoke like a real person does (Kozlowski and O'Connor 2002). A “light” cigarette has ventilation holes in the tip and the air indrawn dilutes the tar and nicotine. A human needing a certain amount of nicotine tends to inhale more deeply and more often, and may obstruct the holes with fingers or lips. Thus the machine reads lower values for nicotine and tar than a human smoker actually consumes. Smokers increase their puff volume, number of puffs, and number of cigarettes smoked, and they block filter vents to compensate for the smoke yields of lower tar cigarettes as measured by standard smoking machine tests.

Because smokers had to inhale more deeply to obtain the dose of nicotine they crave, the cigarette gave the impression of being “lighter” (Physicians for a Smoke-Free Canada 2005). The smoke from a ventilated cigarette is less dense, but because smokers inhale more of it, they are actually getting the same amount of toxic substances as with regular cigarettes. The smoking sensation perpetuates the impression. The adjustment of smoking is called “compensation,” and these cigarettes were designed to be “compensatable.”

Filter ventilation is a crucial design feature, creating three main problems for lower tar cigarettes as measured by the official smoking machine test (Kozlowski and O'Connor 2002). It misleadingly makes cigarettes taste lighter and milder, and, therefore, they appear less dangerous to smokers. It also promotes compensation mainly by facilitating the taking of larger puffs. For very heavily ventilated cigarettes, behavioural blocking of vents with lips or fingers is an additional contributor to compensatory smoking.

Despite malfunctioning filters, the manufacturers deliberately advertised these cigarettes labelling them as “light” or “mild”, and also in other ways suggesting healthiness. Women were a particular target for “light” and “mild” cigarettes, especially when delivered as “slim” or “thin” (Carperter, Wayne and Connolly 2005) (with concentrated nicotine and cancer-causing chemicals in the smoke).

The Barclay cigarette, with a novel grooved filter, was introduced in the USA in 1980 and was the subject of the most expensive product launch in the US history (Kozlowski et al. 2005). In Finland, Barclay was launched in 1983 (Hiilamo 2004). This cigarette design ultimately became infamous around the world because of findings that it could not be properly analysed by official tar testing systems. The filter design became dysfunctional in the smoker’s mouth and hands, but not in the smoking machine. The tobacco documents indicate that the manufacturer was aware of the design problems and planned how to respond to criticism even before the product was released.

## **2.6 The properties and effects of nicotine and research on addiction**

Tobacco industry has tried to resist tobacco control measures by publicly denying that nicotine is addictive. The most famous instance of denial was in 1994, when seven chief executive officers of US tobacco companies each swore before a committee of the US Congress that they did not believe nicotine was addictive. Without any doubt, the tobacco scientists knew that nicotine was addictive, that the main reason people smoked and had difficulties in quitting was because of addiction, and that the impact of nicotine could be boosted by making it reach the brain more quickly through additions of certain chemicals to the cigarette (Hirschhorn 2005). One of the best known quotes from the tobacco industry documents is from a memorandum of a lawyer, acting for the tobacco company Brown & Williamson, who wrote in 1963: “Nicotine is addictive. We are, then, in the business of selling nicotine, an addictive drug.”

The tobacco documents also reveal that the tobacco industry investigated nicotine extensively (Hurt and Robertson 1998, Vagg and Chapman 2005). Research was directed towards greater understanding of nicotine pharmacology, how to screen for potential analogues, and how to separate the central and peripheral effects of nicotine. The tobacco manufacturers also tried to replace nicotine in order to create more “desirable” products and to circumvent the anticipated nicotine regulation. Other manipulations included adding chemicals to the tobacco with the aim to speed the absorption of nicotine in the lungs, manipulating the blend of tobacco, and adding nicotine to the filter or to the front end of the cigarette (Hirschhorn 2005).

The documents have also revealed that e.g. PM discovered already in the late 1970s that adding alkaline ammonia compounds lowered the acidity of the smoke, which in turn changed the chemical structure of nicotine to allow it to reach the brain faster: a nearly instant “hit” by the drug, something the tobacco chemists call an “impact” (Willems et al. 2006). The process is similar to that of free-basing cocaine for a rapid and more powerful effect (Hirschhorn 2005). The process named in the documents as “ammonia technology” was developed by PM for its Marlboro cigarettes, and quickly copied by the other cigarette companies.

## **2.7 Research on additives in tobacco products**

Cigarettes are much more than dried tobacco leaves rolled into a paper tube. Tobacco industry adds both natural and synthetic chemicals to cigarettes for a variety of reasons, including:

- To disguise the harsh taste of nicotine
- To make the smoke less irritating to smokers' mouth and throat (particularly among novice smokers)
- To add "flavour" and sweetness
- To increase the efficiency with which nicotine and artificial nicotine analogues reach the brain to maximise addiction
- To widen the lung passages for faster absorption of the smoke
- To regulate the burn temperature, to prevent the cigarette from being extinguished on their own when not being inhaled
- To prevent the tobacco from "sparking" and sending cinders onto smokers' clothing
- To reduce the smell of ETS
- To retain optimum moisture in the tobacco, important for storage, via the use of humectants (Chapman 2003, Garten and Falkner 2004, Keithly et al. 2005).

In addition to the four thousand naturally occurring chemicals in tobacco, TIDR has revealed tobacco industry efforts to add various other chemicals, without ever informing the public (Hirschhorn 2005). Some of the additives include chemicals that damage the liver or are suspected of being cancer causing. TIDR has also demonstrated the development of flavour delivery technologies hidden from consumers and public health professionals, including the use of a plastic pellet placed in the cigarette filter. Tobacco manufacturers have introduced a proliferation of exotic brands featuring candy-like flavours. Sugar, cocoa, liquorice, and chocolate especially have been added to appeal to young people beginning their experiments with smoking.

## **2.8 Marketing of tobacco products**

Tobacco companies and their public relations firms have always insisted that advertising does not cause non-smokers to take up the habit, but is intended to get those already smoking to switch brands (Hirschhorn 2005). Furthermore, the companies have vigorously denied that they ever marketed to children.

Since the majority of adult smokers begin smoking in their teenage years, this is the group that had to be targeted by advertising and promotions. The tobacco companies have created “children shouldn’t smoke until they are adults” campaigns around the world, without ever mentioning the health reasons for not smoking. The evidence from the tobacco documents reveals an undeniable interest on the part of the tobacco industry in marketing cigarettes to minors (Cummings et al. 2002). In an effort to compete for a share of the starter smoker market, cigarette companies have created special product formulations, developed unique packaging designs, pricing schemes, sport sponsorships (Deshirst and Sparks 2003) and advertising and promotional campaigns which appeal to the unique wants and needs of the young smoker.

Since the early 1990s, PM has pursued standardised market research and strategic marketing plans in different regions throughout the world using research on young adults with three principle foci: lifestyle/psychographic research, brand studies, and advertising/communication effectiveness (Hafez and Ling 2005). PM has also identified core similarities in the lifestyles and needs of young consumers worldwide, such as independence, hedonism, freedom, and comfort. At the same time, other tobacco companies have used car race sponsoring to promote above-mentioned values in connection with smoking (Dewhirst and Hunter 2002, Carlyle et al. 2004, Collin et al. 2004).

Tobacco industry has targeted other groups as well, such as immigrants (Muggli et al. 2002, Acevedo-Garcia et al. 2004), homeless and mentally ill people (Apollonio and Malne 2005), African Americans (Balbach, Gasior and Barbeau 2003), college students (Hammond et al. 2005), military personnel (Joseph et al. 2005), and sexual minorities (Smith and Malone 2003, Stevens, Carlson and Hinman 2004, Smith, Offen and Malone 2005, 2006). The documents confirm that women have been a special target for cigarette marketing around the world (Carpenter, Wayne and Connolly 2005). The documents show how tobacco marketing uses images of liberation, equality, slimness, health, vigour and good times to appeal to women, especially with cigarettes identified as “for women only” brands.

As the prevalence of smoking decreases in the developed world, the planning and strategy documents of the multinational tobacco companies show their eagerness to expand profits by vigorous marketing in other parts of the world, especially where restrictions are fewer and the population less aware of the risks (Sebrie and Glantz 2006).

TIDR has provided details about the ways how the industry segmented consumer markets based on psychological needs (stress relief, behavioural arousal, performance enhancement, obesity reduction) and psychosocial needs (social acceptance, personal image) (Cook et al. 2003). Associations between these segments and smoking behaviours,

brand and design preferences were used to create cigarette brands targeting individuals with these needs. The documents show the close attention the industry has paid to social and economic class, racial character, age and sex, level of education, patterns of smoking, and many other subcategories (Hirschhorn 2005). For example, research by a Canadian tobacco company tried to predict which schoolchildren would become future smokers.

## **2.9 Economics and taxation**

TIDR supports the findings from academic and other research demonstrating that price is a key determinant of overall cigarette smoking. Higher tobacco prices cause significant reductions in the overall smoking prevalence and increases in smoking cessation, and the effects on young people are relatively large (Chaloupka et al. 2002). The documents indicate how tobacco companies used price based marketing efforts to respond to tax changes and other tobacco control efforts. Moreover, they confirm the effectiveness of large cigarette excise tax increases as a potent policy for governments in their efforts to reduce tobacco use, particularly among the young.

US tobacco control advocates began urging government investment and pension funds to divest tobacco stocks as a matter of responsible social policy in 1990 (Wander and Malone 2006). PM led the divestment opposition, consistently framing both the rhetorical contents and the legal contexts of the divestment issue as one of responsible fiscal policy. The company insisted that funds had to be managed for the exclusive interest of beneficiaries, not the public at large, and for high share returns above all. PM succeeded in minimising the impact of divestment activities – first, by muting the consequences of a divestment, and second, by convincing e.g. university decision makers to recommend against tobacco stock divestment (Wander and Malone 2004).

The tobacco industry strategy of using seemingly independent third parties was extended to the financial analysts working for the large investment banks to support the industry's political and public policy agenda (Alamar and Glantz 2004). These analysts were used to lobby members of the US Congress, and present testimonies friendly to tobacco industry before a Congressional committee. In this way, the tobacco industry has presented its point of view for the lawmakers indirectly, as from an "independent" source.

The tobacco industry has also used trade policy to undermine effective barriers to tobacco importation (Shaffer, Brenner and Houston 2005). Recent agreements on eliminating various trade restrictions, including those on tobacco, have expanded far

beyond the simple international movement of goods to include internal tobacco distribution regulations and intellectual property rules regulating advertising and labelling. Trade negotiations have provided an unwarranted opportunity for the tobacco industry to assert its interests without public scrutiny. Trade agreements provide the industry with additional tools to obstruct control policies in both developed and developing countries.

## **2.10 Industry tactics for resisting public policy on health**

The tobacco industry has a long record of undermining tobacco control measures to minimise damage impact to their sales and reputation (Glantz et al. 1998, Hirschhorn 2005). Control efforts have been undermined by the industry's success in developing favourable relationships with many governments, the magnitude of their foreign direct investments and the scale of advertising, marketing and sponsorship campaigns. Large-scale cigarette smuggling depletes tax revenues and further jeopardises public health. In their analysis of tobacco industry documents, Salojee and Dagli (2000) identified seven categories of tactics used by the industry to resist government regulation. They include

- Conducting public relations campaigns,
- Buying scientific and other expertise to create controversy about established facts,
- Funding political parties,
- Hiring lobbyists to influence policy,
- Using front groups and allied industries to oppose tobacco control measures,
- Pre-empting strong legislation by pressing for the adoption of voluntary codes or weaker laws, and
- Corrupting public officials.

In the USA, the tobacco industry has been engaged in a comprehensive and aggressive political effort in state legislatures to sell tobacco with the least hindrance using lobbying, the media, public relations, front groups, industry allies, and contributions to legislators (Givel and Glantz 2001). These efforts have included campaigns to neutralise clean indoor air legislation, minimise tax increases, and preserve the industry's freedom to advertise and sell tobacco. The industry lobbied to defeat the occupational safety and health administration indoor air quality rule by maintaining scientific debate about the basis of the rule, delaying deliberation, redefining the scope, recruiting and assisting labour and business organisations to oppose the rule, and by increasing media coverage of the tobacco industry position (Bryan-Jones and Bero 2003). The tobacco industry was successful in

increasing the number of states that enacted state pre-emption of stricter local tobacco control laws and prevented the passage of many state tobacco control policies in the 1990s. Similar lobbying campaigns were extended to other markets. TIDR contained reference to such campaigns e.g. in Australia (Carter 2003, Carter and Chapman 2003, Carter, Chapman and Peters 2003, Chapman 2003, Chapman and Carter 2003, Trotter and Chapman 2003).

The strategy to buy scientific and other expertise to create controversy about established facts was related especially to ETS and implemented in the late 1980s and in the early 1990s. The ties between the experts and tobacco industry were not exposed until the tobacco documents were published (Chapman 2003, Fields and Chapman 2003, Chapman 2003). One of the most prominent consultants for the industry was a Washington based firm, Healthy Building International, which, by advocating ventilation solutions, was actually advancing tobacco industry's interests to prevent building owners from introducing smokefree workplaces (Chapman and Penman 2003). In the wake of widespread acceptance that tobacco use causes illness and death, many individual businesses (and even entire industries) took positive steps to eliminate employees', customers', and facilities' exposure to tobacco smoke (Landman 2000). The tobacco industry reacted with aggression, and in some cases with retribution, against businesses that voluntarily adopted policies discouraging tobacco use. For example, PM and an insurance company collaborated to censor accurate information on the harm of smoking and ETS exposure from the insurance company's health newsletters disseminated to PM employees and its affiliates (Muggli and Hurt 2004). Furthermore, the industry has considered stop smoking programs as a major threat and mobilised resources for a well-coordinated attack against the programs (White and Bero 2004).

The federal restrictions of in-flight smoking in the USA were viewed by the industry as a serious threat to the social acceptability of smoking in the late 1980s and early 1990s (Lopipero and Bero 2006). The initial efforts to oppose such restrictions included covert letter-writing campaigns and lobbying of the airline industry, but with the emergence of proposals to ban smoking, the tobacco companies engaged in ever increasing efforts to forestall further restrictions. The industry launched an aggressive public relations campaign that began with the promotion of industry sponsored petition drives and public opinion surveys. Results from polling research that produced findings contrary to the industry's position were suppressed. To demonstrate smokers' outrage against a ban the tobacco industry sponsored smokers' rights and other front groups.

In Europe, the tobacco industry lobbied against the EC directive on tobacco advertising and sponsorship in the late 1990s by seeking to enlist the aid of figures at the

highest levels of European politics while at times attempting to conceal the industry's role (Neuman, Bitton and Glantz 2002).

Before the tobacco documents' recovery it was well known that the tobacco industry has placed articles in scientific literature to maintain controversy over the dangers of tobacco use, while claiming that smokers are well informed about the risk (Smith 2006). The companies used e.g. an industry-created organisation called Associates for Research in the Science of Enjoyment (ARISE) in an attempt to directly undermine popular understanding of the hazards of smoking through stories successfully planted in the press by ARISE. Many of these articles presented two themes: smoking was a healthful "pleasure", and health promotion practices, including cessation, were stressful and unhealthy.

The tobacco documents also demonstrate the strategic importance of tobacco smuggling across global, regional, national, and local levels (Collin et al. 2004). Particularly important in Asia, contraband has enabled access to closed markets, created pressure for market opening, and generated high profits.

TIDR shows that tobacco industry has been setting up or subsidising pro-tobacco organisations that appear to be acting independently (such as smokers' associations, scientific groups, restaurant and hotel associations, agricultural and tobacco grower associations, among others). The strategy to use front groups and allied industries to oppose tobacco control measures has engaged e.g. fire service organisations (Barbeau et al. 2005), pharmaceutical companies (Shamasunder and Bero 2002) and labour unions (Balback et al. 2005).

A more recent research has focused on corporate social responsibility (CSR), which has emerged especially in the early 2000s from a realisation among multinational corporations of the need to account for and redress their adverse impact on society. Examination of the internal company documents of PM showing the company's deliberations on the matter has been used to reflect on whether marketing tobacco is antithetical to social responsibility (Hirschhorn 2004).

Drawing upon tobacco industry's internal strategy documents prepared over several decades, research has demonstrated how the tobacco industry operates as a global force, regarding the world as its operating market by planning, developing, and marketing its products on a global scale (Yach and Bettcher 2000). The industry has used a wide range of methods to buy influence and power, and penetrate markets across the world. The industry has also tried to damage tobacco control efforts including the WHO's Framework Convention on Tobacco Control through intelligence gathering and surveillance of public health groups (Carter 2002, Maleone 2002).

## 2.11 Litigation

The tobacco documents convinced several juries in US lawsuits that the tobacco companies had been negligent and deceitful. Consequently, the US tobacco industry faced a far greater number of lawsuits, and a greater variety of types of lawsuits, between 1994 and 2005 than it had in the previous years. Plaintiffs won 31 (41%) of the 75 cases that were tried to verdict during the years 1995–2005 (Douglas, Davis and Beasley 2006). The history of tobacco litigation provides a model for evaluating potential litigation strategies against other industries that pose a threat to public health, particularly the food industry (Alderman and Daynard 2006).

Tobacco documents have been used to expose tobacco industry litigation strategies. In Argentina, for example, industry strategies included hiring legal consultants from prestigious international and Argentinean law firms and developing litigation prevention programs (Flores et al. 2006). The industry monitored legal academic meetings, controlled development of new product liability legislation, obtained favourable opinions from experts, and closely observed the development of litigation in Argentina. In California, tobacco industry's litigation strategy aimed at impeding tobacco control media campaigns was to allege that the campaigns polluted jury pools and violated First Amendment rights, because they were compelled to pay for anti-industry ads (Ibrahim and Glantz 2006).

Tobacco industry has been able to lead the Courts to misinterpreted epidemiologic evidence by requiring a doubling of the disease rate in exposed populations as a sine qua non for the establishment of causation (Egilman, Kim and Biklen 2006). In their quest for a simple quantitative rule, courts have created an erroneous standard that serves as a one-sided gate to courtroom entree. Although the tobacco industry helped fund the attack on “junk science”, it has created its own dubious scientific scholarship for its expert witnesses (Friedman, Faynard and Banthin 2005). Tobacco industry documents demonstrate that much of tobacco industry's expert witness proposed testimony was developed by and for tobacco industry lawyers. During trial testimonies and depositions in second-hand smoke cases, the defence tactics mirrored, though not often cited directly by the witnesses, the strategies used in industry-funded reports in the peer-reviewed literature (Francis, Shea and Samet 2006).

TIDR has also revealed direct financial ties between the tobacco industry and groups that organise judicial seminars in an effort to influence jurisprudence (Friedman 2006).

Since the late 1970s, when communities in the USA began passing local tobacco control ordinances, the tobacco industry has used litigation to deter them, often through surrogates or front groups, including hospitality associations (Nixon, Mahmoud and Glantz 2004). Despite its substantial legal resources, the tobacco industry has not fared well in challenging local ordinances in court.

## **2.12 Strategies outside the USA**

Although the tobacco documents only concern companies doing business in the USA and the majority of research has likewise focused on practices there, many documents make references to other markets (Hirschhorn 2005). Such documents include a mass of material on strategies outside the USA, e.g. worldwide plans, strategy outlines and correspondence between multinational corporations. The material has been made available due to the fact that copies of letters, memos, telexes, emails and reports from subsidiary companies and overseas offices were sent back to the American home offices. There is a wealth of TIDR literature on strategies outside the USA with topics ranging from smuggling and subversion of proposed legislation to tobacco industry youth campaigns. Generally, the strategies employed in other countries have been similar to those promoted in the USA.

TIDR has focused on tobacco industry's continental strategies e.g. in Asia (Knight and Chapman 2004a, 2004b), Middle East (WHO 2000) and Latin America (Barnova and Glantz 2002, PAHO 2002). Research has been conducted in certain Asian countries as well, e.g. in the Philippines (Alechnowicz 2004), Japan (Assunta and Chapman 2004a, Iida and Proctor 2004, Lambert et al. 2004, Bialous, Mochizuki-Kobayashi and Stillman 2006), Singapore (Assunta and Chapman 2004b), Malaysia (Assunta and Chapman 2004c, 2004d, 2004e), China (O'Sullivan and Chapman 2000, Kingman 2001, Lee, Gilmore and Collin 2004b, Lee and Collin 2006), Hong Kong (Knight and Chapman 2004c), Taiwan (Wen et al. 2005a, 2005b, 2006), Indonesia (Lawrence and Collin 2004), Cambodia (Mackenzie et al. 2004) and Thailand (Vateesatokit 2003, Mackenzie and Collin 2004a, 2004b).

Also, former Soviet Union (Gilmore and McKee 2004a, 2004b) and its newly independent republics have been targeted (Gilmore et al. 2004), among others Moldova (Gilmore et al. 2005) and Uzbekistan (Gilmore, Collin and McKee 2006). Several individual regions within the USA have been studied as well (Givel and Glantz 1999, 2000, Givel, Dearlove and Glantz 2001, Givel and Glantz 2002, Givel 2005). Tobacco industry's actions in the Australian continent have been highlighted in several reports regarding, e.g.

New Zealand (Thomson and Signal 2005, Thomson and Wilson 2005) and Australia (Champan, Byrne and Carter 2003).

Other continents have received less attention. By 2007, there were only two studies concerning the African continent, on Malawi and on Kenya (Otanez et al. 2006, Patel, Collin and Gilmore 2007), and one study regarding a South American country, Argentina (Sebrie et al. 2005). The study on Kenya carried a telling title “The law was actually drafted by us but the Government is to be congratulated on its wise actions: British American Tobacco and public policy in Kenya” (Patel, Collin and Gilmore 2007). One could ask whether tobacco industry might have gone to even greater lengths in opposing tobacco control in those countries with weaker or non-existent democratic institutions.

In Europe, there are some of studies focusing on BAT’s activities (Hirschhorn 2006). Other specific studies have been conducted only on Hungary (Szilagyi and Chapman 2003a, 2003b, 2004, Szilagyi 2006), Spain (Shafey et al. 2004) and Switzerland (Lee and Glantz 2001).

The most comparable cases to Finland with regard to health legislation are the other Nordic countries. TIDR has focused on Norway (Birkeland and Birkeland 2000, Birkeland, Andreassen and Duvaland 2000) and Sweden (Lambe, Hallhagen and Boethius 2002). The reports from Norway focus on the availability of documents concerning Norway but do not provide extensive information on tobacco industry strategies in the country. A tobacco industry document report on Sweden puts the documents retrieved from various internet sources into a local tobacco control legislation context. The report revealed that Sweden and Finland were classified as "priority 1" areas in which to intensify efforts to resist tobacco control measures in the late 1980s and early 1990s (e.g. ETS 1991, Lambe, Hallhagen, Boethius 2002). In the late 1980s, PM increased its activities in Scandinavia in order to counteract taxation threats and marketing restrictions. Swedish scientists were engaged by the tobacco industry in the "White Coat" project, a program expected to shed doubt on research linking passive smoking to health risks. For instance, a document in 1991 outlined a plan for the Nordic region aimed at preventing the use of "ETS misinformation" as a means to restrict smokers' rights, and at establishing "acceptable solutions for the interaction between smokers and non-smokers". The Swedish tobacco company Swedish Match collaborated with PM in challenging measures to limit tobacco use, including the new, stricter tobacco law proposed in the early 1990s.

So far there are no studies where the planning and implementation of tobacco industry strategies are compared across several countries. There is also no information available on the differences in lobbying strategies between international tobacco companies. It is possible that there are regional and company specific differences in the

way the strategies to undermine regulation were planned and implemented in distant markets.

However, the studies mentioned above suggest that the tobacco companies planned and implemented same strategies both inside and outside the USA. The tobacco industry's public position in all markets has been that there exists ongoing controversy surrounding the issue whether smoking causes diseases or not. The "controversy" has been 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 (e.g. Barnoya and Glantz 2005).

The results from the tobacco industry strategies outside the USA show also that the tobacco industry planned and implemented the campaign against ETS restrictions in the markets outside the USA as well. By late 1980s the tobacco industry had identified the decline of social acceptability of smoking in Europe as a major threat to its business (Lee and Glantz 2001). This observation 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 "accommodation program" is another well-known tobacco industry strategy to pre-empt regulatory measures against smoking in restaurants and workplaces (Lee and Glantz 2001). It was first developed in the United States and later used in many European countries, e.g. Sweden and Switzerland. The "accommodation program" is another illustration of tobacco industry's recycling of strategies and tactics worldwide. The shift of focus from secondhand tobacco 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 (Lee and Glantz 2001, Lambe, Hallhagen, Boethius 2002)

TIDR has shown that the tobacco industry has pursued standardised market research and strategic marketing plans in different regions throughout the world (Hafez and Ling 2005). The industry has e.g. adopted standardised global marketing efforts allowing regional managers to create regionally appropriate individual advertisements. Moreover, TIDR has demonstrated that the tobacco companies have utilised the same arguments in public debates both in the USA and in other markets. The consultants recruited by the industry have appeared both inside and outside the USA purporting the same message: no tobacco regulation is warranted. In conclusion, it is fair to claim that by using similar strategies inside as well as outside the USA the tobacco industry has successfully blocked, delayed, and diluted meaningful tobacco control measures in a number of countries.

## **2.13 Summary**

A review of the literature provides a fairly comprehensive insight into the general strategies of tobacco industry, particularly in the US market. A review of regional studies suggests that most of the tobacco industry strategies to undermine tobacco control were planned and implemented globally. That was the case especially with regard to the campaign against ETS restrictions. It is noteworthy that tobacco industry made extensive efforts to undermine tobacco control in Sweden, i.e. in a country with similar characteristics to Finland. However, it is not known whether the tobacco industry strategies were implemented in Finland. The question begs for an answer given the fact that Finland has been in the forefront of tobacco control and the fact that the first product liability case outside the USA and Australia was filed in Finland.

### **3 Aims of the present study**

The general aim of the present study is to analyse the strategies of international tobacco companies that influenced tobacco litigation and tobacco regulation in Finland. The tobacco industry strategies can be analysed by emphasising particular cases or strategies used on a general level. The advantage of a case typing of strategies is having the strategies within the decision-making context. However, exposing cases requires either voluminous coverage or concentration on limited cases only. In the following, the first two papers focus on litigation strategies on a particular court case while the other two papers aim to create an overview of the lobbying strategies against tobacco regulation.

The fact that Finland was the first country to file a product liability case against tobacco industry in Europe provides an opportunity to analyse the tobacco industry litigation strategies outside the USA. Thus the Finnish case forms the focal point of the study. In the first paper, the Finnish litigation is evaluated in the context of tobacco industry litigation strategies. The second paper studies the industry's scientific strategies with regard to the product liability case. Other tobacco industry strategies are studied at a more general level, since we are not able to concentrate on particular areas of tobacco control, e.g. tobacco industry strategies against restaurant smoking bans or efforts to circumvent advertising ban. The third paper studies whether the same strategies to undermine tobacco control were employed in Finland as in the USA. The purpose of the fourth paper is two-fold. The paper tries to find new insights into the tobacco industry's strategies to undermine tobacco control at the local level while also analysing the reliability of the tobacco industry documents.

The period of analysis begins in 1975, a year before the Tobacco Act came into force, and is extended to 2001 when the Supreme Court gave the final decision on the product liability case against tobacco companies in Finland.

The study has four specific aims.

1. The first specific aim of the present study is to focus on the tobacco control implications of tobacco litigation in Finland. We are interested in the roles of international tobacco companies and the level of control they employed in the Finnish litigation. On court records, only two local manufacturers, Rettig and Suomen Tupakka were parties to the lawsuit in Finland. The defendants sought to portray the cases as a legal dispute played at the local level with Finnish tobacco manufactures and their attorneys as key actors. At the time of the legal proceedings, Finnish tobacco legislation was being reviewed, and the court cases became an important battlefield for the definition of tobacco as a social problem. We will attempt to assess whether the litigation contributed to subsequent tobacco control legislation in Finland. Finally, we will assess whether the litigation affected the course of litigation in Europe.
2. The second aim of the present study is twofold: first, to explore the possible linkages between tobacco industry's scientific strategies and its legal defence, and secondly, if such linkages exist, whether they contribute to distorting the court process or not. The product liability litigation in Finland will be used as a case study (Hiilamo 2004).
3. The third aim of the present study is to examine how global tobacco companies have endeavoured to influence tobacco regulation in Finland, a small, but interesting market area due to its special features. The aim is not only to analyse the strategy of the industry, but also to estimate what kind of effects the tobacco companies have had on Finnish tobacco policies in the 1980s and early 1990s. The main question is: did the tobacco companies succeed in finding a successful strategy for undermining the development of tobacco control in Finland?
4. The fourth and final aim of the present study is to explore whether the material from the private archive of a tobacco lobbyist will augment or revise the earlier reports on tobacco industry manipulation in Finland. The study will also provide general information about the limitations of the tobacco documents.

## 4 Methods and data

### 4.1 Tobacco industry documents

In evaluating the source material of this study, it should be borne in mind that the tobacco industry documents have been generated during the presentation in court of evidence on the health hazards of tobacco, when each party can request from the other any information that is essential to the hearing.

The methodological questions in tobacco document research concern search strategies and analysis strategies. Search strategies used in tobacco document research refer to the ways in which researchers find the documents, analogous to the data collection or survey administration phase of epidemiological research. Analysis strategies are the ways in which researchers make sense of the documents, analogous to the statistical analysis or modelling phase of an epidemiological analysis.

The approach to qualitative research may reflect positivist, interpretative or critical social science traditions (Neuman 1997). The positivist tradition aims to employ deductive logic in confirming a set of probabilistic causal laws to predict general patterns of human activity, while the interpretative tradition seeks to understand and interpret how people create and maintain their social worlds. The critical tradition tries to uncover the real structures in the material.

In using primary sources it is important to recognise the value judgements made by the people who wrote them and the intent of the author in writing the original document. In TIDR the focus lies on actors within the tobacco industry. As Bryman (1988, 61) accounts, "the most fundamental characteristic of qualitative research is its express commitment to viewing events, actions, norms, values, etc. from the perspective of the people who are being studied". In TIDR, the process involves a capacity to penetrate the frames of meaning with which the tobacco industry officers operate.

The evolution of search methods is linked to the availability of the documents. The first approach to the mass of information in the documents, also referred to as "haystack" (Chapman 2000) and "smoking gun" (Concar 1998), was the 4B index which is a compilation of indexes developed and provided by each of the tobacco companies that were

defendants in the MSA. The index contains objective indexing information such as author, date, verbatim title, recipient, persons copied, type of document and Bates number. Bates numbers are unique document identifiers assigned by each producing party to each page of the tobacco industry documents at the time the documents were produced in litigation. The name Bates number comes from the name of the machine -- Bates -- that is used to stamp numbers onto pages of documents.

Initially, the search was troublesome. In the depositories, the researchers had to find a document by using the index, generate a list of documents to examine, then identify by number and company the box in which the document was stored, fill out and turn in a request form, wait for depository staff to retrieve the box from storage, sort through the densely packed pages to locate the document by Bates number, mark the place of the document in the box and, finally, fill out another form to order a copy (Balbach and Barbeau 2005). Moreover, it was difficult to locate the relevant documents in the database. The 4B index is not based on a controlled vocabulary, i.e. the list of the subject headings is not standardised, and may thus include misspelled words as indexing terms. Very soon it was discovered that electronic research via the Internet was far more efficient than traditional, non-electronic forms of research to retrieve data from the depositories (LeGresley, Muggli and Hurt 2005). The contents of the documents presented another problem in being full of internal codes, acronyms and abbreviations, which were difficult to interpret. Later, a guide helping to decipher the internal codes has been published (Cullen et al. 2005).

Establishment of secondary collections of tobacco industry documents enhanced the research possibilities. The main secondary collections are the Legacy Tobacco Documents Library (LTDL) and the Tobacco Documents Online (TDO). LTDL is a collection of tobacco industry documents from the files of tobacco companies. It provides a facility to search all collections at once. TDO provides enhanced access to MSA documents by providing optical character recognition (OCR) of the contents for a large number of documents, which enables full text searching.

Data for this research are primarily drawn from the internal tobacco industry documents made available online through the MSA supplemented by select documents from the BAT Guildford Depository. Preliminary research was conducted between November 2001 and May 2006 using the primary MSA websites: Philip Morris (<http://www.pmdocs.com>), RJ Reynolds (<http://www.rjrtdocs.com>), Lorillard (<http://www.lorillarddocs.com>), The Tobacco Institute (<http://www.tobaccoinstitute.com>), The Council for Tobacco Research (<http://www.ctr-usa.org>), Brown & Williamson (<http://www.bwdocs.com>) and the American Tobacco Company (<http://www.bwdocs.com>).

The searches on industry websites were concentrated on Philip Morris website (see MacKenzie, Collin and Lee 2003, page 15 for differences between the primary MSA websites and secondary collections). The Guildford documents were searched in February 2002 and in December 2003 at the Guildford depository. MSA searches were supplemented with TDO ([www.tobaccodocuments.org](http://www.tobaccodocuments.org)), Legacy Tobacco Documents Library (LTDL) (<http://legacy.library.ucsf.edu>) and BAT Document Archive (<http://bat.library.ucsf.edu/>) research. The most important source was TDO due to the availability of full text search possibility at the time of the study.

## 4.2 Search strategies

In order to maximise our search effort for documents relevant to the topic of tobacco industry strategies in Finland, we used the following three general strategies.

### *Strategy 1*

Both broad and focused keyword searches were performed. Broad keyword search involved searching of single keywords such as "Finland" or "Aho" (plaintiff in the product liability case) to capture the maximum amount of hits with the keyword located anywhere in the document citations, usually the title field. This search method typically produces a very large volume of documents (in some cases thousands). The large volume of documents retrieved was reduced through the use of focused keyword search. This was achieved by combining keywords with Boolean operators (AND, OR, NOT) and by limiting the search to specified fields (date of the document, author of the document, title of the document, date loaded) to retrieve documents with keywords only as they appear in that field.

Throughout the search, there was a plan to search broadly for terms that might have been used in a verbatim title. That included not only the terms in current use, but also the terms that might have been used at an earlier point in time. Not all documents have a verbatim title assigned, meaning that documents were also searched under the author's name, or online in a "person" field or fields.

This topic-focused preliminary research was an attempt to find as many documents as possible that were relevant to Finland and to review the contents of those documents. Search words incorporated synonymous terms representative of the concept, acronyms, abbreviations, variations of spelling, etc. Documents concerning Finland were sought

systematically by using search words such as "Finland", "Finnish", names of organisations related to Finland, Finnish publications (newspapers, magazines, etc), working groups ("National Manufacturers Association", "Egil group"), tactics ("whitecoats", "Courteous Smokers Club Hu-Tu"), companies ("Amer-Tupakka", "Rettig"), cities (Helsinki, Tampere, Turku, Kuopio, Oulu), and individuals. In addition, the search included representatives of tobacco companies, tobacco activists and lawyers involved in tobacco litigation, politicians, journalists and medical doctors (especially industry witnesses in tobacco litigation).

The documents covered concentrate on the 1980s and early 1990s, when the major tobacco control issues in Finland concerned the public opinion on smoking, proposed restrictions on smoking, level and structure of tobacco taxation, sales promotion, and the ongoing product liability litigation. Many documents have references to earlier correspondence and include attachments, which cannot be found from the databases. The documents include internal codes and abbreviations, whose full meaning is difficult or impossible to interpret, and many of them are partially or totally smudged. On several occasions, Finnish names have been misspelled and Scandinavian characters have been translated in different ways in the index field, which makes the research even more complicated. However, a document found with one search word often gives hints for new search (or new misspelling) words and they, again, may include further search words.

The preliminary results were sorted by date, categorised into broad themes and evaluated according to their degree of importance. The preliminary analysis led to "aim-focused" research where specific issues were identified for further examination.

### *Strategy 2*

The problem with the documents is that they have not been indexed to files or folders according to dates or topics. However, index 4B includes file name. As a second step files, which had produced interesting documents were examined. The files were also searched using Bates numbers.

### *Strategy 3*

Above mentioned keywords, file names and Bates numbers were used in extensive searches at TDO website which enables full text searches. TDO also includes important sub-collections.

The search of the Guildford documents was based on file headings, file opening dates and file owners' names, with "Finland", "Aho", "litigation" and "product liability" as the most important search words. The search of the Guildford Depository documents was hindered by following conditions:

- Restricted access to the depository (two and three months waiting time respectively on two occasions)
- Limitations on the number of visitors at any one time
- Surveillance by video cameras (adding stress to data search at the depository)
- Crude indexing of documents – this is done at file level only, with files typically consisting of hundreds of pages so users have to search each file manually
- Refusal to provide photocopies at the depository (with requests for photocopies taking three and two months respectively on two occasions).
- Refusals by BAT to supply some documents based on unchallengeable claims of 'privilege' asserted by its lawyers (the share of denied documents was around five percent of the material requested, i.e. some 25 pages out of some 500 pages).

The tobacco industry document material has been supplemented with documents from the Finnish tobacco litigation, which the Physicians for Social Responsibility – Finland organisation has published as a series of books based on individual hearings. Together with information from hearings and published sources (books, journal and newspaper articles) on tobacco control in Finland, it has been possible to triangulate information gathered from the tobacco industry documents.

The five main limitations (A–E) of the search undertaken for this research include:

- A. Documents made publicly available do not represent the entire backlog of all documents of those companies covered by the MSA. What is available are those company documents that were released through the process of discovery, i.e. specific, litigation-related documents that were requested by the parties involved in the legal action. Of the documents released via the MSA, only a small proportion were documents produced in Finland. Consequently, the located documents are not assumed to be a complete representation of all Finnish documents.<sup>1</sup> The documents may also be fragmentary with regard to their content and time covered, and they may provide only a partial picture of a tobacco company's activities.

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<sup>1</sup> One of the research questions described above is directly linked with this issue, namely whether the material from a private archive will augment or revise the earlier reports on tobacco industry manipulation in Finland.

- B. Limited access to BAT documents at the time of data collection for two papers of this study. Data collection for the first paper was finalized in September 2003 and for the third paper in November 2002. The MSA website provision did not apply to BAT and only a small subset of documents was made available on the Internet by researchers who had requested documents directly from the Guildford Depository and digitized them. The situation did not change before 2004 when the Guildford Archiving Project was launched with around 1million pages.
- C. Widespread document destruction has been documented (Lieberman 2002, MacKenzie Collin and Lee 2003, Hirschhorn 2006). Document owners may have personal reasons for retaining certain documents while destroying others. Because of large-scale document destruction, the documents available represent an unknown cross-section of all documents ever written or circulated within the industry. As might be expected, industry officials have become more vigilant about record keeping practices, not only since the MSA but as early as the mid-1980s (LeGresley 1999).
- D. A major shortcoming is that during the presentation of evidence, no information needed to be disclosed on matters concerning the relationship between an attorney and his client or related documents. The PM and BAT archives, however, incorporate a section containing information on documents withheld on the basis of attorney-client privilege or some other judicial claim (The Privilege Log). This section of the archives includes only the index information of the documents and the archive can only be investigated using document numbers (PM) or document titles (BAT). All the Privilege Log documents relating to the Finnish product liability case have been scrutinised using the information on the location of the files relating to the case or using search words derived from the cases.
- E. Since data collection was completed for this research more documents have been made available, especially following discovery in the US Department of Justice case. However, crude search tests indicate that the release of new documents does not significantly increase the number of documents pertaining to Finland, nor is the validity of the results from this study questioned. The number of documents found using the search word “Finland” e.g. at [www.pmdocs.com](http://www.pmdocs.com) has increased only by a couple of dozen since the data collection for this study was completed.

Other limitations include:

- It is impossible to claim that all MSA documents pertaining to Finland were collected for this study, for two reasons: (a) The entire MSA collection is not subject indexed.

- (b) There are typographical errors, missing data, data mapped to wrong fields, and inconsistencies in the format of names and organisations in the document bibliographic information.
- Redacted material. There were many documents where sections of information were withdrawn.
  - Illegibility. A number of documents were illegible due to a poor original copy or problems with reproduction.
  - Limited opportunities for verification of content. The data contained in the documents were not systematically certificated. Information in the documents may be political and subjective or sometimes simply wrong. It is also very important to note that the documents were inadequate in exposing the course of events, for example, due to defects in filing, it was occasionally impossible to distinguish plans from implemented decisions.

### **4.3 Analysis strategies**

This study design borrows from the case study tradition in qualitative research (Stake 1994). The epistemological question is whether something can be learned from a single case, i.e. tobacco industry activities in Finland. The aim is to optimise the understanding of this particular case, not to optimise generalisation.

The study relies on a historical research tradition and, more specifically, on a notion of politics of history (Zinn 1970, Nyyssönen 2001, Parvikko 2004, Carter 2005). Reconstructing past events is not politically and historically innocent. On the contrary, historical memory is profoundly political. The politics of memory is defined as an attempt to reconstruct certain historical events in such a way that these events are given predetermined significance. Thus, the politics of memory is about how and what past events will be remembered and what kind of political significance will be given to these events (Parvikko 2004). The politics of memory concerns not only the past as such, but by reconstructing certain events and dimensions of the past (instead of some others) in a certain way there exists a desire to affect and influence the present and the future. In other words, reconstruction of the past is not performed for the sake of reconstruction alone, but rather for the sake of the present time and the future. Given the origin of the tobacco documents and the public health background of most of the researchers it is evident that

TIDR will reconstruct tobacco industry actions in a way that promotes tobacco control and public health. This study is focused on those aspects of tobacco industry actions, which are relevant for developing tobacco control and public health both in Finland and internationally.

In this research, the general analysis strategy is to place the industry documents in an appropriate context of supportive evidence (court records, previous literature on tobacco control in Finland) of tobacco control and tobacco litigation in Finland. Different analysis strategies were employed to address specific research aims.

1. In the case of tobacco control implications of the first European product liability suit, the documents were analysed in more detail by placing them in the organisational, hierarchical and strategic context of the tobacco litigation.
2. While analysing the funding of tobacco industry's medical expert witnesses in the Finnish product liability case, the documents were categorised by looking into the references of the type of contacts the witnesses had with the tobacco industry before, during and after litigation.
3. With regard to tobacco industry efforts to undermine tobacco control in Finland, a category-type analysis strategy was employed. The content of the documents was divided into larger categories by emphasising particular cases or tactics used on a general level. As mentioned above, Salojee and Dagli (2000) identified 14 tactics, which the industry has used in opposing tobacco legislation. The categories presented by Salojee and Dagli were constructed to assess the international activities of tobacco companies and were thus not entirely suitable for describing the situation in Finland. For example, manipulation of the media has been of key importance in Finland. This was examined in connection with PR activities. Consultancy programs and commissioned research were included as new categories of tobacco industry tactics.
4. The analysis strategy in the study examining tobacco industry documents from outside sources was to compare information on tobacco lobbying contained in the private archive material possessed by the Cancer Society with earlier reports describing tobacco industry manipulation in Finland (Carter 2005). The analysis was supplemented with data obtained from systematic search of tobacco industry documents published online. The revised categories of tobacco industry tactics by Salojee and Dagli (2000) were used to categorise the tobacco industry efforts aimed at undermining tobacco control in Finland.

## 5 Results

### 5.1 Tobacco control implication of the first European product liability suit (Paper 1)

#### *The three categories of Finnish lawsuits*

In 1988, a personal injury case was filed in the Helsinki District Court against tobacco companies. Subsequently, two criminal cases were launched in Espoo and Helsinki. For a long period Finland remained the only country outside the USA and Australia where a claim against tobacco companies was litigated in court. Experiences from litigation in the US provided a backdrop for the analysis of the Finnish cases.

Pentti Aho's claim was based on the fact that he had been smoking Klubi and North State cigarettes from 1941 to 1986 and had been diagnosed with laryngeal cancer and other illnesses in the 1980s, which according to him were caused by smoking. The defendants in the personal injury case were Rettig Oy and Suomen Tupakka Oy, the importers, manufacturers, and marketers of the said cigarettes. The British company BAT was, because of its subsidiary Suomen Tupakka (BAT Finland since 1992, subsequently BAT Nordic), the only international tobacco company to be a direct defendant in the Finnish product liability suit.

Rettig was at that time an RJR licence holder in Finland, but the lawsuit did not concern the RJR cigarette brand (in 1995 RJR bought Rettig). PM, the market leader in Finland, and its licence holder, Amer, were thus not parties in the product liability suit.

#### *Tobacco industry's joint defence*

In the light of the tobacco documents, Finnish tobacco litigation appears not so much a threat against two tobacco manufacturers operating in a small country as a threat against the whole tobacco industry. The preparatory work was conducted in committees or groups,

which assembled the companies' internal and external resources and were of crucial significance for the implementation of the defence.

It is particularly interesting that PM took such an active role in the court case and made a concerted effort to influence public debate on the subject. In the early 1990s, PM was not just the leading tobacco company in the western world, but was by far the most effective lobbyist for the industry. Its operations covered the whole world and were more extensive than those of the Tobacco Institute, which is the industry's joint lobbying organisation. PM's interest can also be explained by the fact that it dominated the Finnish market through Amer and the negative side effects of the litigation reflected most strongly on it.

### *PR-strategy*

The industry's joint front broke down partially over the publicity strategy. Despite strong pressure from PM BAT and RJR did not participate in the public debate on the case during the district court proceedings. Their strategy could be justified by PM's non-involvement directly as a party in the product liability suit, although, as the market leader in Finland, it suffered most from the negative publicity. PM in particular seems to have seen the proceedings as part of the health policy battle to reduce smoking and crush the tobacco industry. The court judgment was not the only thing that mattered, the argumentation in the proceedings was as important. Rettig represented the other extreme on the scale, being known for its low publicity profile; it saw the product liability case as a purely juridical issue.

It seems that litigation in Europe was not so much a legal risk as a PR risk for the tobacco industry. The correspondence from the Aho case suggests that, unlike the Cipollone case, the tobacco industry was the underdog in Finland and could not use the scorched earth strategy. On the contrary, the industry attempted to show that the opponent misused the Finnish judicial system.

The Aho case was the first of its kind in Europe and the tobacco companies certainly had no wish to continue litigation elsewhere. The situation was also somewhat unclear in the USA. The Supreme Court did not pass judgment on the Cipollone case until the end of 1992. In preparing for judgment in the Aho case, PM referred to the Cipollone case in its questions and answers memo. Whatever the judgment was going to be in Finland, the industry was supposed to answer that it would not affect the Cipollone case.

### *Strategies for court proceedings*

Another important matter for the industry was for the Finnish defence to be constructed on the same principles as in the USA. Besides using the same argumentation, meaning same terms and descriptions, for example, for general and specific causality, the witnesses were also partly the same. The companies were probably worried about something being said in Finland concerning the health hazards of smoking that would not be consistent with what had been said in the USA and which could be used against the industry elsewhere.

Indeed, the tobacco companies succeeded in their most important aim: they won the product liability suit and Finland did not become the model country, which could have opened the gates for an avalanche of corresponding lawsuits. The outcome surely discouraged litigation in other European countries. The tobacco manufacturers' international networks later exploited the experience from the Aho case. Even before the district court ruling, the PM senior lawyer had written to his colleague at BAT concerning a meeting between the industry attorneys to be held in March 1992 in the UK and suggested that one or two key lawyers in the Aho case be invited to attend. The first judgment in the case would by then be available and it was thought to be worthwhile introducing it to a large audience. The tobacco industry drew attention to the Aho case in the UK in autumn 1992, when it presented its response in the dispute concerning legal aid in litigation against the tobacco industry. The case was mentioned as one example of the fact that product liability suits would not be successful in every country.

### *Effects on tobacco policy*

The main concerns in the light of the industry's internal correspondence relating to the litigation were the reform of the product liability legislation, provisions concerning the disclosure of tobacco ingredients, and proposition for a new Tobacco Act. These issues were discussed within the same networks as the legal proceedings.

The industry suffered the first regulatory setback at the very beginning of the legal proceedings. The plaintiff's attorney, Erkki Aurejärvi, asked the Consumer Complaint Board to take a stand on some of the key questions litigated in court. The statement favoured the plaintiff's viewpoints. The industry tried to play down the consequences by

calling the statement "a premature and one-sided expression of opinion that was generated without the benefit of any information from the tobacco industry" (Parrish 1989). Despite the statement by the Consumer Complaint Board, the government proposal for a new product liability law in 1990 did not include tobacco products. It is very unusual that the Parliament would amend a proposal issued by the government. In this case it happened. A major ground for the Second Law Committee to include tobacco products was the fact that the tobacco industry denied the health hazards of its products as was clearly illustrated in court at the time.

Since the early 1990s, the major issue in the Finnish market, however, was the proposition for a new Tobacco Act. PM launched a major lobbying effort to counter the Ministry's plans to introduce severe workplace/restaurant smoking restrictions, to ban brand diversifications and trade information, and to decrease legal protection given to the industry. The strategy was to build a wide network of allies with a common self-interest and to target briefings with key politicians, political parties, authorities, and unions. Due to the pending litigation, PM was left alone to implement the strategies. BAT Finland's strategy for 1993-97 stated that the company would not participate in the discussion about the health hazards of smoking because of the litigation. The rationale was to eliminate all statements that could be later used against the company in court. The PM representatives regretted that the other companies based in Finland could not take part in the lobbying against the new Tobacco Act because of the litigation.

The litigation also hampered PM's own lobbying efforts. Denying the hazards caused by tobacco in the Aho litigation, despite indisputable scientific evidence, consumed the credibility of the industry and it did not manage to win support either from the public opinion or from the legislators.

## **5.2 The impact of strategic funding by the tobacco industry of medical expert witnesses appearing for the Defence in the Aho Finnish product liability case (Paper 2)**

### *American expert witnesses on "scientific controversy"*

Tobacco industry employed two strategies to recruit witnesses in the Aho case. The first strategy was to employ as witnesses those scientists with whom the industry had worked ever since the 1960s. The defence had 26 witnesses to the "scientific controversy" over

smoking and health. Five appeared in person. All asserted that the link between smoking and cancer had not been proven, when there was a widespread epidemiological consensus that it had. For example, in Finland as early as 1960, three physician groups issued a statement that tobacco was to be considered a major threat to public health. During the Aho proceedings, 63 well-known medical doctors and scientists (nearly all of them professors of the medical sciences) signed a statement titled "Tobacco Causes Cancer" to support the plaintiff.

Twenty-three experts out of 26 had received research funding from the tobacco industry before testimony. Twelve experts worked as consultants for the industry. The link to tobacco industry was formed through CTR. All of the experts had been involved in the CTR "special projects". The result, if not the aim, appears to have been the creation of a network of expert witnesses available to defend tobacco industry. The U.S. expert witnesses on "scientific controversy" had appeared altogether 83 times between 1957 and 1983 before the U.S. Congress testifying that causality for smoking and certain diseases had not been proven.

Witnesses downplayed the importance of their involvement with the industry. Later, in another case, a local defence attorney inexplicably stated that none of the tobacco industry medical expert witnesses had received funding from the industry.

### *International expert witnesses on causation*

Another type of strategy was needed to find experts from Europe. It involved meetings between lawyers and experts as well as joint preparations for testimony. Research funding was used as a means to tie contacts with potential witnesses.

Only three of the experts on "scientific controversy" received research funding after the testimony in Helsinki. However, the issue of specific causation remained highly important, though not crucial for the industry. The funding for that topic produced a body of research that could be used to support industry's arguments. Funding helped the experts to develop further their knowledge on that particular field and was hence useful for the industry. The input of these researchers was later utilised in lobbying and in litigation.

### *Developing witnesses for the Aho case – Finnish experts*

The available documents indicated that industry attorneys interviewed some twenty Finnish medical doctors and scientists from four major cities – Helsinki, Tampere, Kuopio and Oulu, but only one – a professor of anatomy from the Helsinki University – was ready to testify in person on behalf of the tobacco companies. A professor of pathology from Kuopio University gave a written testimony in the Aho case, establishing that a tissue sample from the plaintiff was possibly infected with Human Papillomavirus (HPV).

Later, after consulting with the National Board of Medicolegal Affairs, the professor of anatomy was prosecuted for alleged perjury. During the proceedings, the police learned that the professor had received 40 000 USD from tobacco companies in compensation for the testimony and expert opinion on passive smoking. It was claimed that the compensation was well above the standard rate in Finland, where compensation is calculated with regard to loss of income while preparing and presenting the testimony. The perjury indictment proceeded in Helsinki District Court for three years and 22 hearings. The indictment was, however, finally dismissed and the professor was acquitted after a 2–2 vote, the chairman voting for dismissal.

At the time of preparing the testimony, the professor of pathology applied to PM and BAT for a grant to study the natural history of HPV infections in the lower female genital tract and their association with intraepithelial neoplasia and genital squamous cell cancer. After submitting an application for tobacco industry funding, the professor was asked to omit all references to smoking in his project, which he did. Subsequently, the professor was dismissed from his position as a professor for not reporting the tobacco industry research funding in his personal taxation, for which he was sentenced to probation. After another professor from Kuopio University was suspected of not reporting tobacco industry funding to the university and tax officials in 2005, the Kuopio University board decided to cease accepting tobacco industry funding (Savon Sanomat 2005).

The findings demonstrate that research funding was closely connected to witness development in the Aho case. By granting research funding, the industry had created a pool of experts who were willing either to testify or to recommend other potential medical expert witnesses for the industry. Altogether, as many as thirty-three of 45 medical expert witnesses received research funding from tobacco industry before or after the testimony. Nineteen of them worked in different positions as consultants for the industry. The Aho case proved a watershed in tobacco industry research funding. As an association between smoking – including ETS – and disease causation became more and more generally accepted, testimonies on ”scientific controversy” began to lose importance.

### **5.3 Tobacco industry strategy to undermine Tobacco Control Act in Finland (Paper 3)**

The globalisation of the world economy has brought into debate the influence of multinational companies on political processes and democracy. The multinationals have been criticised for undermining democracy with their economic power, that is, by affecting decision making through illegal or unethical means. All industries try to encourage a regulatory framework that is favourable to their business, and there is nothing inherently undemocratic in doing so. The denial of health hazards and the attempts to corrupt scientific records puts the tobacco companies in a different position.

#### *Tactics for influencing tobacco regulation in Finland*

Documents concerning Finland show that here, too, the tobacco companies have systematically sought to prevent tobacco legislation and to steer discussion away from the harmful effects of smoking. The general picture of Finnish parliamentarism is characterised by the strong role of both workers' and employers' organisations. Finnish industries have traditionally lobbied lawmakers through their organisations. This does not seem to have been the case with the tobacco companies, which have mainly acted on their own initiative.

The documents indicate that the same strategy that has been used elsewhere has been exported to Finland and implemented in the local environment. Tobacco companies have attempted to hide behind apparently objective and independent scientists, research results, and actors in public debate. Financial and other links between these actors and the tobacco industry have not been revealed. Clearly the companies have utilised internationally coordinated strategy, which has been applied in the local business environment. The Finnish case adds to the common knowledge of the local application of a standard international strategy devised by the tobacco industry. Furthermore, there is some evidence that the tobacco companies have used Finland as a test-bed for collecting experiences on how to operate in a hostile environment and have delivered that knowledge to other markets.

Finland has been of particular interest to tobacco companies because of the country's long experience with tobacco legislation. As early as 1975, a PM internal memorandum states that the local staff in Finland was able to persuade the government of Finland to

increase tobacco prices by only 6% through raising the excise tax, while the planned increase was as high as 53%. The Central Labour Union supported the lobbying, which was against high tobacco prices.

Again in 1984, an internal report summarising "the remarkable success" of PM lobbying efforts in Finland was distributed among the PM directors. The results were described by one PM director as "highly desirable from the point of view of maintaining market share, a favourable level of taxation, and averting a costly price war" (Whist 1984). The report also gave more general recommendations, which is a direct indication that the tactics devised for Finland can be quoted as example of what could be done in other markets.

The fear of ETS was considered greatest in those markets where regulation of smoking has been in place for a long time. The tobacco companies feared that restrictions imposed in Finland might spread to other markets. Thus Finland has served as an important target for investigation and pressure for the tobacco companies, even though the Finnish tobacco market itself is fairly small.

The proposal for a new Tobacco Act was the major issue in the Finnish market since the early 1990s. The first proposal was raised in the autumn of 1990. An internal document states that Amer-Tupakka/PM initiated a series of information activities, which resulted in the bill reaching the government but never being put before the Parliament (Philip Morris 1992a). This was a triumph for the industry as it was able to halt the introduction of a major legislative reform.

Despite opposition by the industry the bill was kept alive. In March 1992, PM learned that the ministry was again preparing a new law proposal which was considered as "a very severe one" since it would among other things "delegate more powers to different supervising bodies, almost giving them full freedom to harass the industry", "effectively ban trademark diversifications", and "ban smoking in public places and workplaces where there are more than two people" (Puotila 1992). Again the process was delayed. Due to Amer-Tupakka/PM information activities, the Ministry of Health decided in September to take a new look at the bill and its practical implications (Philip Morris 1992a). The objective of PM was to "successfully counter the Ministry's plans" (Philip Morris 1992a).

During the 1980s and early 1990s the major issues in tobacco control in Finland concerned the public opinion on smoking, proposed restrictions on smoking, level and structure of tobacco taxation, sales promotion and on-going product liability litigation. The different tactics utilised to tackle each of these issues are summarised in Table 2.

**Table 2.** Tobacco industry tactics and their utilisation in Finland

	Public opinion on smoking	Proposed restrictions	Tobacco taxation	Sales promotion	Litigation
Lobbying	X	X	X		
Consultancy programs	X	X			X
Paid research	X	X	X		X
Intelligence gathering		X	X		
Public relations	X			X	
Smokers' rights groups	X			X	
Creating alliances		X	X		
Intimidation					X

### *The effectiveness of tobacco industry tactics*

Decision-making on tobacco issues involves a multitude of factors affecting the final outcomes. Therefore, it is very difficult to establish causal relationships between tobacco industry tactics and regulatory outcomes. In the following, we will only look at references where actors in the tobacco industry evaluate the success of their efforts themselves. These are not mentioned as establishing a causal relationship, but rather reflecting the way events were interpreted within the industry.

The Act on Measures for the Restriction of Tobacco Smoking was passed unanimously in the Finnish Parliament in 1976. The Act was very progressive at the time and Finland became the model country in preventive measures. Europe's first product liability case against the tobacco industry was brought in Finland in 1988. Simultaneously with the case, the authorities began revising certain provisions of the Tobacco Act, which were difficult to interpret and implement.

Avoiding tax increases, preventing class action legislation and delaying the enactment of the new Tobacco Act were clear triumphs for the tobacco companies (PM 1992b, 1995a, 1995b, 1996). However, when these outcomes are contrasted with more comprehensive legislative development, these examples turn out to be of little importance. In spite of fierce opposition from the tobacco companies, what was the most comprehensive tobacco act in Europe at the time was enacted in Finland and it came into force at the beginning of 1995. As the proposal for a new Tobacco Act was processed by the Parliament, several restrictions were added to it. It seems that PM was successful in lobbying the government but not the Parliament.

#### **5.4 Tobacco industry documents from outside sources: new perspectives on industry strategies on local levels (Paper 4)**

The tobacco documents have also been used to study tobacco industry operations outside the USA. The reports raise questions concerning the limitations of the document source. Tobacco industry documents originate from tobacco litigation in the USA. No industry keeps every document it produces, especially if they are produced in a distant country. The scope of the documents concerning a country outside the USA is decided mainly by the extent to which documents and reports were transmitted from the abroad offices of the US tobacco companies to headquarters. While operating in distant markets, the international tobacco companies may, for instance, have used subcontractors who might not have reported about their operations. Consequently, activities of the US tobacco companies in distant markets might be under-represented.

So far it has been almost impossible to assess the number of documents that never entered the records. A case in Finland could provide some leads to the dilemma. In 2003, the Cancer Society in Finland received a private archive of a person, Matti Otva, who worked as a public relations consultant to PM, the most influential international tobacco company in Finland, and its licensee Amer-Tupakka. Similar caches of documents might also be available in other countries. We explored whether the material from a private archive of a Finnish public relations consultant to Philip Morris will augment or revise the earlier reports on tobacco industry manipulation in Finland.

## *Tobacco lobbying*

The Otva files indicate in greater detail what was going on in tobacco lobbying at the local level. Before the mid-1980s, PM argued that the Nordic market was characterised by a lack of coordinated lobbying activity. Motivated by the ETS threat PM was reviewing plans and hiring corporate affairs staff specialists to strengthen the National Manufacturers' Associations (NMA) in each market. In October 1987, Matti Otva was addressed as an NMA's "PR-man" (Carlson 1987).

The TIDR regarding lobbying in Finland has established that the international tobacco companies utilised similar strategies in Finland as in other industrial markets to fight tobacco control. The description of strategies is detailed but most of the target names are missing. The PM documents discuss government relations programs, for instance, but no single cabinet minister in Finland is mentioned in the documents as a recipient of PM's hospitality.

Otva's papers, however, provide more details. In 1989, Otva proposed inviting a certain cabinet minister to Switzerland: "As an eager skier [the minister] might be interested in visiting Lausanne and one of the Swiss ski resorts as guest of PM. The matter should be handled without any publicity. The most natural way to arrange the skiing trip sponsored by PM would be to connect it with one of his other trips" (Otva 1989). In 1990, the minister gave a statement criticising advertising ban. In 1992, the minister invited Amer Tobacco's managing director to a golf evening and to the government's manor, Königstedt.

While proposal for a new tobacco act was processed in the Parliament, Otva was reporting on weekly basis. Otva's reports included very detailed descriptions of the internal issues of the ministry of health and social affairs, which prepared the proposal for Tobacco Act amendment. Otva also gave very detailed recommendations for lobbying. Otva proposed e.g. exact phrases of wording for the amendments to the act. For example, in 1994, Otva recommended that PM should lobby for introduction of an additional resolution to the act. The resolution would oblige the government to synchronise Finnish tobacco legislation with the corresponding legislation in the European Union.

One of Otva's most interesting papers is a memorandum of PM's Nordic bimonthly corporate affairs meeting in November 1990. Publicly available tobacco documents include similar memoranda describing PM strategies and their implementation, but this particular document is missing. The meeting evaluated, among other things, the International Smokers' Rights Conference which had been held in Helsinki in October. Similar examples of internal memoranda not entered in the publicly available tobacco documents are lists of

corporate affairs accountabilities for the Nordic area in April–May 1990, in February–March 1991, and September–October 1991. The documents are rich in details on how PM strategies were implemented on local level.

### *Friendly journalists*

Journalists sympathetic to the tobacco industry provided a fertile ground for the arguments of the tobacco companies, which claimed that the health effects of smoking were not proven and thus no regulation was warranted. PR man Otva devised a list of potentially "friendly journalists" with detailed background information e.g. on their tobacco status and attitudes. Otva also tried to arrange PM support for Ski Club International des Journalists

Only two tobacco industry documents mention in passing the Nordic Film Festival, a PR event sponsored by PM (PM 1990). Otva's documents include a memo by Ingemo Bonnier which gives a detailed account of PM's objectives and strategies with regard to Nordic Film Festival. First of all, PM aimed to increase social acceptability of the company "through positive association with an event which is seen and reported as beneficial to the Nordic markets" (Bonnier 1990). The event also allowed PM to foster contacts with "leading Nordic journalists" and with an "exceptionally important Nordic journalist residing in the USA".

### *Smokers' rights groups*

The published tobacco documents describe how tobacco industry used the Smokepeace movement in promoting the "accommodation message" in Finland. It is obvious from the documents that the association presented as a spontaneous NGO was actually controlled by the tobacco industry. More detailed information is included in Otva's papers. As a paid PR-specialist, Otva was a board member of the Finnish association. For example, Otva took responsibility for digitalising the membership records and devised a statement on tobacco taxation. Moreover, Otva was involved in recruiting new members for the association. According to minutes of a board meeting, a BAT employee and an Amer-Tobacco employee took part in the meeting of the information group of the association in August 1991.

The private records also illustrated, for example, how connections with influential persons in Finland were used for lobbying in Turkey and Iran, including records of lobbying plans never implemented. Nonetheless, Otva's records do not contain material of PM's strategies in Finland that would lead to a sharp reconsideration of the earlier reports on tobacco industry manipulation in Finland.

The private records add more details to previously published reports. The new information mainly concerned implementation of the tobacco industry strategies. The records include not only private documents but also some produced by PM which have not been made available on the PM document web site. This is suggestive of limitations on the published tobacco industry documents.

## 6 Discussion

### *The outcomes of tobacco industry strategies*

The first product liability case against the tobacco industry in Europe was filed in Finland. A legal loss in Finland would have opened the gates for an avalanche of corresponding lawsuits. International tobacco companies have feared that litigation and restrictions imposed in Finland might spread to other markets. Thus Finland has served as an important target for investigation and pressure by the tobacco companies, even though the Finnish tobacco market is fairly small. This study clearly demonstrated that Finland was of particular interest to tobacco companies. The comprehensive tobacco legislation in Finland has in effect created a kind of experimental market for the multinational tobacco companies. The companies have used Finland as a case for investigating how they can live with restrictive tobacco legislation and how they can work around it when necessary.

The tobacco industry documents suggest that international tobacco companies considered the legal proceedings in Finland as a global threat. The industry tried to play down the importance of the product liability process by portraying it as a local dispute with no international connections. The tobacco companies were successful in this product liability litigation. The Supreme Court dismissed the product liability suit in June 2001 by a vote of 4–1. The majority of the members had accepted the general causality between smoking and illnesses, but were not fully certain if smoking had caused the plaintiff's illnesses. In the absence of internal tobacco industry documents, the courts were unable to assess the bias of the tobacco industry expert witnesses.

The outcomes from the Finnish tobacco litigation on tobacco control support the hypothesis presented by Jacobson and Warner who argue that the role of the litigation is to complement a broader, comprehensive approach to tobacco control (Jacobson and Warner 1999). Despite its legal loss, the Finnish litigation contributed to subsequent tobacco control legislation in Finland. The proceedings revealed that the industry had concealed the health hazards of its products and, despite indisputable evidence, continued to deny them. The positions taken by the industry rocked its reliability as a social actor and thus weakened its chances of influencing tobacco policy. Despite fierce opposition from the

tobacco industry, tobacco products were included in the product liability legislation, tobacco entered on the Finnish list of carcinogens, and an extensive Tobacco Act was passed by the Parliament. The Finnish experience was that litigation does not stand alone as a means to achieve public health policy goals. Litigation complements a broader approach to tobacco control policymaking by stimulating national debate over the role of smoking in society. Thereby it may well move the policy agenda.

The Finnish cases illustrate that it is very difficult for the judges to assess the argumentation in matters of scientific nature e.g. such as if a tobacco manufacturer is to be blamed for the plaintiff's disease. The sporadic evidence available for the Aho case suggests that lawyers played a major role in the preparation of the expert witnesses' testimonies. The compensation for testimonies was excessive by local standards, which may have caused a bias towards a particular conclusion. The testimonies on "scientific controversy" were not based on independent research. If the witnesses make verifiably false statements under oath or affirmation, they may be sued for perjury. Suing foreign expert witnesses in Finland was a practical impossibility (Hemmo 1990). The perjury case against the Finnish medical doctor brought only more confusion and did not help the court to determine whether the expert's conclusions and underlying research were scientifically sound.

Many scientific institutions have created definite policies not to accept research grants from tobacco industry (Powles 2001, Harvard ... 2006, Tobacco ... 2006). The adequacy of journal policies regarding competing intent disclosures and the acceptability of tobacco industry funding is also questioned (Bero, Lantz and Hong 2005). Nonetheless, many institutions and researchers propose tobacco industry research funding (Cohen and Goldstein 1999, Cohen 2001, Smith 2003, Grimm 2005). The results of this study challenge the universities and research institutes who continue to accept tobacco industry funds to acknowledge the risks that funding may relate to witness development of their academics for the benefit of current or future tobacco litigation.

The documents also indicate that the same strategies to undermine tobacco control that have been used elsewhere have been used in Finland as well. In practice, this means that the tobacco companies have attempted to hide behind apparently objective and independent scientists, research results and actors in public debate. The financial and other connections of these actors with the tobacco industry have not been revealed. The significance of Finland as a target for the tobacco companies' intelligence operations can be seen in practice in that the companies have put considerable amount of effort and money into monitoring public debate in Finland.

It has been clear to the tobacco industry that it cannot win the debate by using health-based arguments. Therefore, the industry has sought to steer the focus of the debate on tobacco industry away from health issues. One way it has sought to do so has been to use commissioned research projects relating to the employment effects of tobacco industry, the revenues from the tobacco tax, and citizen's opinions on tobacco regulation. Sympathetic journalists and politicians have provided fertile soil for the arguments of the industry, which claim that the health effects of smoking have not been proven and thus no regulation is warranted.

The activities of the tobacco companies have slowed down and prevented the implementation of tobacco legislation and restrictions. This has caused significant damage to public health in Finland. The amount of human damage cannot be estimated numerically, but it is possible in the future to monitor the activities of the tobacco companies more closely.

Despite the extensive pressure, the industry was not able to prevent the most progressive Tobacco Act in Europe from being passed and coming into force in Finland, neither in 1977 nor in 1995. One reason behind the failure was that the industry did not manage to win the support of public opinion. Denying the health hazards caused by tobacco in the product liability litigation, while scientific evidence on the harmful effects of ETS was mounting, undermined the credibility of the industry. Instead, the tobacco companies managed to defend themselves successfully in the product liability lawsuit. The tobacco industry was also successful in delaying the introduction of restaurant smoking ban.

### *Validity and reliability of the results*

Tobacco industry documents were used as a primary source in this study. The documents offer first hand information on the tobacco industry strategies and their implementation. However, the documents do not always provide exact information on the outcomes of the strategies. Therefore the documents have a shortcoming in exposing the course of events. For example, due to defects in filing, it was occasionally impossible to distinguish plans from implemented decisions. In every lobbying effort, it is possible to identify three consecutive phases: planning of the strategy, implementation and outcome. It is known from earlier reports on tobacco industry internal documents that the plans described in the documents did not always turn into action. Strategic plans may have been produced to promote projects and obtain financing inside the company. This flaw may apply to internal

reports on strategic outcomes as well. This study did not focus beyond broad outlines on how the tobacco industry strategies were implemented.

A major weakness of the TIDR is that the documents made publicly available are not the entire backlog of all documents of those companies covered by the MSA. The documents may be fragmentary in content and time covered and provide only a partial picture of a tobacco company's activities. The private records of a tobacco industry lobbyist added more details to previously published reports of tobacco industry strategies aimed at undermining tobacco control in Finland. Since the new information mainly concerned implementation of tobacco industry strategies, however, the material was by no means exhaustive, and it may only give clues regarding the general limitations of the tobacco documents.

In consideration of the results from the comparison between the published tobacco industry documents and the unpublished documents from a private archive, it is fair to assume that despite above described limitations the documents proved a valid source of information about the topics covered in this study, namely, tobacco industry strategies to influence smoking regulation and their defence strategies for product liability litigation. The tobacco industry documents were produced by tobacco industry actors who were not aware at the time of preparing the documents that these will be placed into the public domain. The information included in the documents can, therefore, be generally considered reliable. However, when assessing the reliability of the document, it must be kept in mind that the information contained in the documents may be political and subjective. A general conclusion is that the tobacco industry documents provide sufficient information to convey a general view of tobacco industry strategies even in such distant markets as Finland. The findings are deemed accurate in reflecting the objects of the study.

The analysis method in this study was based on setting the documents into the context of tobacco litigation and tobacco control policy. The emphasis of the analysis was laid on those aspects of tobacco industry activities, which are relevant for promoting tobacco control and public health in the present time and in the future. More specifically, the documents were categorised according to themes (e.g. tactics to undermine tobacco control) and individuals (e.g. tobacco industry scientific medical witnesses). The weakness of this approach is that it may have failed to identify certain tactics possibly employed but not included by the industry in the previous literature. It is also possible that some individuals not appearing in the context of tobacco control and tobacco litigation have promoted tobacco industry's interests. Given the extensive review of the previous literature on tobacco industry tactics together with an in-depth analysis of tobacco control and tobacco

litigation context in Finland, these options are hardly plausible. It is expected that another investigator would reproduce the findings presented here.

The chosen method gave preference to general tobacco industry tactics over specific cases. The advantage of a case approach is having the tactics within the decision making context. However, exposing cases requires either voluminous coverage or concentration on limited cases only. In this study, the aim was to create an overview of the strategy and tactics concerning Finland. A challenge for the future research is to focus on specific cases, which are still relevant for tobacco control, e.g. tobacco industry efforts to undermine restaurant smoking bans in Finland. Why did a forerunner country in tobacco control end up as a laggard in introducing restaurant smoking bans (Joossens and Raw 2006)?

Do strategies outlined in this study prove unique to tobacco industry or do they reflect a more general behaviour of multinational companies in global markets? In the absence of comprehensive primary sources, it is difficult to gain insight into corporate activities of companies operating in other fields of industry. For example, there is widespread evidence that the asbestos industry systematically developed and then suppressed information on the carcinogenicity of asbestos (Linienfeld 1991, Braun et al. 2003, Egilman 2003, Peacock and Libby 2003). The strategies bear resemblance to those employed by the tobacco industry.

Commercial exploitation of asbestos during the 20th century generated massive profits for companies mining and processing the mineral. The asbestos industry deployed a range of international strategies to control the production and dissemination of knowledge about asbestos. Such strategies included direct suppression of data from industry-sponsored research, selective publication of research findings, and systematic use of scientific knowledge to create uncertainty. The strategies enabled corporate and governmental stakeholders to set the terms of the asbestos debate. The development of warnings for those exposed to asbestos was delayed. As a result, millions of workers were exposed to this carcinogen and hundreds of thousands died.

Furthermore, the corporate accountability of agrochemical industry has been questioned with regard to the damage caused by its perpetuation of the use of harmful chemical pesticides (Riggs and Waples 2003). The evidence described above gives grounds to assume that tobacco industry strategies to undermine regulation may have been more comprehensive than in other industries but not unique in their character.

This research has focused on a particular case, i.e. tobacco industry activities in Finland. How far is it possible to generalise the results? The findings of this study are in accordance with findings from similar studies on other tobacco industry market areas. In several instances, however, the tobacco industry has referred to Finland as a “priority area”

or a marked area where a particular strategy was to be tested. The comprehensive tobacco control regulation in Finland made the country to stand out as a special case for the tobacco industry strategies to influence tobacco regulation. Although reflecting universal issues in tobacco control, the findings from the Finnish case may not be generalisable to other countries of similar size.

## 7 Conclusions

### *The role of the Finnish market*

The WHO Framework Convention on Tobacco Control requires governments to be vigilant against "any efforts by the tobacco industry to undermine or subvert tobacco control efforts" (WHO 2003). This study demonstrates that the tobacco companies sought systematically to prevent tobacco legislation and to deflect discussions away from the harmful effects of smoking in Finland. The Finnish case illustrates that even a small market area can become the target of intensive campaign to undermine tobacco control. It seems that the size of the market has not been as important to multinational tobacco companies as the level of tobacco control implemented on a particular market. The tobacco companies have focused their tactics of opposing regulation especially on markets with comprehensive tobacco control measures, because they feared that tobacco control initiatives could spread to other markets – as actually happened. Moreover, the companies invested major resources to legal defence in Finland, another example of the importance of a small market area with distinct tobacco control initiatives.

### *Current tobacco industry strategies*

Most of the documents covered in this study date back to the late 1980s and the early 1990s. The publication of the internal tobacco documents may have changed the most blatant tobacco industry practices. Nevertheless, the tobacco companies are still active in opposing tobacco control measures, even in Finland. The tobacco documents may still be useful for planning and implementing tobacco control measures as well as in assessing the tobacco industry positions in the tobacco debate. That holds true e.g. with respect to debate on tobacco taxation, total smoking bans in the workplaces, and restaurant smoking bans.

It is evident, however, that the tobacco companies have lost the battle over the definition of passive smoking as a health hazard. Small market areas such as Finland are most probably no longer important targets for tobacco industry efforts to undermine

tobacco control. Currently there is a widespread support for promoting tobacco control in Finland as in many other developed countries. It has been suggested e.g. that a sale ban of all tobacco products could be introduced in Finland by 2040. These efforts may not be countered with the variety of tactics used by the tobacco industry in the 1980s and 1990s. At present, the tobacco industry seems to direct its resources into increasing tobacco sales and defying smoking restrictions in the developing markets such as India and China.

### *Relevance for other industries*

However, the experience from tobacco industry conduct may be helpful also in regulating other industries e.g. beverage industry or gambling industry which market allegedly harmful products or services. Given the increasing incidence of obesity and ensuing illnesses, food industry may also be tempted to manipulate debate on the health effects of food products.

### *Tobacco industry scientific witnesses*

Litigation is likely to remain an important issue in tobacco control all over the world. In 2005, a product liability case was launched against manufacturers of "light cigarettes" in Helsinki District Court. For the U.S. context, Friedman, Daynard and Banthin (2005) suggested that plaintiffs should avail themselves of the standards established in a particular case (Daubert) against a pharmaceutical company to exclude tobacco industry defendants' scientific expert witnesses (Egilman, Kim and Biklen 2003). The criteria included: (1) whether testimony was prepared in anticipation of litigation, (2) whether there is an evident bias towards a particular conclusion in the scientist's testimony, and (3) whether the expert based the testimony on pre-existing or independent research.

The experiences from the Aho case demonstrate that the tobacco industry funded the majority of expert witnesses appearing in court, in amounts beyond simple recompense for the time involved. This may have unconsciously influenced the testimonies the witnesses gave. The possibility of such funding should have been considered, but links between experts and the industry were often downplayed or, in some cases, the financial ties were being forged at the time and the true ties remained unrevealed. Therefore, other types of safeguards for the unbiased process of the court should be established. It would be helpful

to establish norms to guide courts to understand the influences exerted by the tobacco industry in preparation of cases requiring expert evidence.

Given the tobacco industry's record of manipulating science it is essential that the standards established in the USA should be extended to all courtrooms where tobacco industry is a party. It may also be noted that tobacco litigation is serving as a paradigm for lawsuits against manufacturers of handguns, lead paints, fast foods, drinks and other products, which have been designed or marketed irresponsibly (Daynard 2003).

On the basis of this study, the following criteria is proposed in assessing the admissibility and credibility of tobacco industry scientific witnesses and evidence:

- (1) Whether the tobacco industry has been financing the research the evidence is based upon,
- (2) Whether the tobacco industry involvement in the research is fully disclosed,
- (3) Whether the remuneration for the expert is excessive by local standards,
- (4) Whether the evidence or conclusion from the evidence has been peer reviewed,
- (5) Whether the underlying science is generally accepted,
- (6) Whether the tobacco industry lawyers or attorneys participated in the production of the evidence,
- (7) Whether testimony was prepared in anticipation of litigation,
- (8) Whether there is an evident bias toward a particular conclusion in a scientist's testimony, and
- (9) Whether the expert based the testimony on pre-existing or independent research.

### *Accepting research funding*

Also, scientific institutions must be vigilant against undue influences from industries. It is remarkable that the tobacco industry was successful in engaging a part of the scientific community into its campaign in Finland. In Finland, Kuopio University is currently the only university that has banned research funding from tobacco industry. Contrary to tobacco industry funding proponents, tobacco industry funding policy is not dictated solely by scientific merits. The results of this study encourage universities to update their policies with regard to tobacco industry research funding. On a more general level, the experiences from tobacco industry research funding give grounds to review university policies in accepting funds from corporate sources.

## 8 Summary

This study analyses tobacco industry lobbying strategies in Finland from 1975 to 2001. Tobacco industry documents were used as a primary source of data in this study. The documents were made public through the Internet subsequent to the 1998 Master Settlement Agreement between 46 US state Attorneys General and the tobacco industry. The study was focused on tobacco control measures in Finland, including product liability litigation against the tobacco companies between 1988 and 2001. The tobacco control implications of tobacco litigation were analysed e.g. by examining the different roles of international tobacco companies and the level of control they employed in the Finnish litigation. Moreover, this study attempted to assess whether the litigation contributed to subsequent tobacco control legislation in Finland.

The Finnish case was further highlighted through analysis of the possible linkages between tobacco industry's scientific strategies and its legal defence. With regard to tobacco control measures, the aim was to examine how global tobacco companies have tried to influence tobacco regulation in Finland, a small, but interesting market area due to its special features. The main question was: did the tobacco companies succeed in finding a successful strategy for undermining the development of tobacco control in Finland? Finally, this study explored the validity of the tobacco industry documents by examining whether the material from the private archive of a tobacco lobbyist might augment or revise the earlier reports on tobacco industry manipulation in Finland.

This study clearly demonstrated that international tobacco companies considered the legal proceedings in Finland as a global threat. However, tobacco industry tried to play down the importance of the product liability process by portraying it as a local dispute with no international connections. The tobacco companies were successful in this product liability litigation. The Supreme Court dismissed the product liability suit in June 2001 by a vote of 4–1. The majority had accepted the general causality between smoking and illnesses, but were not fully certain if smoking had caused the plaintiff's illnesses. In the absence of internal tobacco industry documents, the courts were unable to assess the bias of the tobacco industry expert witnesses.

Nonetheless, the litigation contributed to tobacco control in many ways. The proceedings revealed that the industry had concealed the health hazards of its products and,

despite indisputable evidence, continued to deny them. The positions taken by the industry rocked its reliability as a social actor and thus weakened its chances of influencing tobacco policy. Despite fierce opposition from the tobacco industry, tobacco products were included in the product liability legislation, tobacco entered on the Finnish list of carcinogens, and an extensive Tobacco Act was passed by the Parliament. The conclusion was that litigation does not stand alone as a means to achieve public health policy goals. Litigation complements a broader approach to tobacco control policymaking by stimulating national debate over the role of smoking in society. Thereby it may well move the policy agenda.

The Finnish case also illustrated that it is very difficult for the judges to assess the argumentation in matters of scientific nature e.g. whether a tobacco manufacturer is to be blamed for the plaintiff's disease. The findings demonstrate that research funding was closely connected to witness development in the Aho case. By granting research funding, the industry had created a pool of experts who were willing either to testify or to recommend other potential medical expert witnesses for the industry. As many as 33 of 45 tobacco industry's medical expert witnesses received research funding from the industry before or after the testimony. Nineteen worked in different positions as consultants for the industry. One strategy was to employ those scientist as witnesses with whom the industry had worked ever since the 1960s. The older witnesses testified to the existence of a controversy, which they, in fact, had helped to create. Those appearing in Helsinki District court apparently downplayed the importance of their involvement with the industry. Another strategy was the use of research funding to establish contacts with new potential witnesses, to strengthen existing contacts, or to pay back helpful experts.

The tobacco industry funded the majority of expert witnesses appearing for it, beyond simple recompense for the time involved. This may have unconsciously influenced the testimony the witnesses gave. This funding should be considered in court, but links between experts and the industry were often downplayed or, in some cases, the financial ties were being forged at the time and were not revealed. It would be helpful to establish norms to guide courts to understand the influences exerted by the tobacco industry in the preparation of cases requiring expert evidence.

The tobacco industry documents suggest that Finland was of particular interest to tobacco companies because of the country's long experience with tobacco legislation. Documents concerning Finland show that here, too, the tobacco companies have systematically sought to steer discussion away from the harmful effects of smoking and to prevent tobacco legislation.

The documents also indicate that the strategies used elsewhere have been used in Finland as well. It has been clear to the tobacco industry that it cannot win the debate by

using health-based arguments. Therefore the industry has sought to steer the focus of the debate on tobacco industry away from health issues. One way it has sought to do so has been to use commissioned research projects relating to the employment effects of tobacco industry, revenues from the tobacco tax, and citizen's opinions regarding tobacco regulation. In practice, this means that the tobacco companies attempted to hide behind apparently objective and independent scientists, research results and actors in the public debate. The financial and other connections of these actors with the tobacco industry have not been revealed. Sympathetic journalists and politicians have provided fertile soil for the arguments of the industry, which claims that the health effects of smoking have not been proven and thus no regulation is warranted.

The significance of Finland as a target for the tobacco companies' intelligence operations can be seen in practice in that the companies have put considerable amount of effort and money into monitoring the public debate in Finland. The tobacco industry activities slowed down the development and implementation of the Tobacco Act in Finland. Despite their extensive pressure, however, the industry was not able to prevent the most progressive Tobacco Act in Europe from being passed and coming into force in Finland, neither in 1977 nor in 1995. Instead, the tobacco industry was successful e.g. in delaying the introduction of restaurant smoking ban and class action legislation.

The tobacco documents offer first hand information on the tobacco industry strategies and their implementation. However, the documents do not always provide exact information on the outcomes of the strategies. Therefore, the documents have a shortcoming in exposing the course of events. Comparing the documents from a private tobacco industry lobbyist with publicly available tobacco industry documents relating to Finland showed that the tobacco industry documents give a comprehensive view of the general tobacco industry strategies even in such a small market area as Finland.

## 9 Acknowledgements

In short, the story behind this book is one about addiction. Personally, I got hooked seven years ago. While doing research for a magazine article in the year 2000, Mervi Hara, Director of Finland's ASH (Action on Smoking and Health) asked me to compile a report on tobacco industry documents concerning Finland. The original report was published in 2001 by ASH Finland and the Physicians for Social Responsibility association.

By that time I had developed a serious addiction to tobacco industry documents. Little by little the dreadfully fascinating world of tobacco industry seemed to open for me like a detective story. While searching the documents in the Internet I could spend hours and hours without even noticing. It felt like rereading the Joseph Conrad's novel *Heart of Darkness*. One document gave serendipitous ideas for other documents. At times I was so obsessed by this project that I hardly thought about anything else. When I could no longer hide the addiction from my family, it became something of a social problem, too..

This book is yet another attempt to free myself from the addiction to tobacco industry documents.

First of all, I want to thank my supervisors, Professor Arja Rimpelä, MD, PhD, and Professor Matti Rimpelä, MD, PhD.

The pre-examiners of this study, Dr. Jeff Collin, University of Edinburgh, and Docent Sakari Karvonen, National Research and Development Centre for Welfare and Health in Finland, made invaluable remarks to improve the quality of this research, for which I am truly grateful.

Ever since 2000 Mervi Hara has encouraged me to carry on with this project, for which she deserves my warmest gratitude. I also wish to thank warmly the numerous experts who furnished me with knowledgeable information and advice: Liisa Elovainio, Pekka Hakkarainen, Norbert Hirschhorn, Mats Lambe, Kristiina Patja, Pekka Puska, Matti Rautalahti, Antti Sajantila, Heikki Salo, Patrick Sandström, Yussuf Saloojee, Ilkka Taipale and all the anonymous referees for papers included in this book. Also many thanks go to Mrs. Marja Vajaranta of the University of Tampere for checking the language and supporting me in the final phases of the work.

My loving gratitude goes to Kirsi and other members of my family who have stood by my side throughout this study and supported me in this seemingly endless project, if not always with words but with silent encouragement.

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# Original publications

# The impact of strategic funding by the tobacco industry of medical expert witnesses appearing for the defence in the Aho Finnish product liability case

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## ABSTRACT

**Aims** To identify and evaluate tobacco industry strategies to recruit medical expert witnesses. **Methods** A systematic search was made of internal tobacco industry documents available on the Internet and at British American Tobacco Guildford Depository. Litigation by a plaintiff with laryngeal cancer against the tobacco industry in Finland was used as a case study of tobacco industry strategies to manipulate science and its use and deployment in defending a product liability claim. **Results** Thirty-three of 45 medical expert witnesses for the defence received research funding before or after testifying. One strategy was to employ those scientists as witnesses with whom the industry had worked since the 1960s. The older witnesses testified to the existence of a controversy which they had, in fact, helped to create. Those appearing in Helsinki District court apparently downplayed the importance of their involvement with the industry. Another strategy was the use of research funding to establish contacts with new potential witnesses, to strengthen existing contacts or to pay back helpful experts. **Conclusions** The tobacco industry funded the majority of expert witnesses appearing for it, beyond simple recompense for the time involved. This may have unconsciously influenced the testimony given by the witnesses. This funding should be considered in court, but links between experts and the industry were often downplayed or, in some cases, the financial ties were being forged at the time and were not revealed. It would be helpful to establish norms to guide courts to understand the influences exerted by the tobacco industry in the preparation of cases requiring expert evidence.

**Keywords** Research funding, tobacco industry, tobacco litigation.

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Submitted 16 November 2005; initial review completed 22 February 2006; final version accepted 22 December 2006

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## INTRODUCTION

The first decade of tobacco industry document research (TIDR) explored the tobacco industry strategies to distort and distract scientific research [1–3]. TIDR has focused especially on scientific strategies relating to environmental tobacco smoke (ETS). The industry lawyers assembled a network of scientists whose mission was to influence the scientific community's view of ETS, namely that ETS is an insignificant health risk [4]. The network covered not only the United States and Europe but extended to other markets, e.g. in Asia and Latin America [5,6]. The scientists were testifying before the US Congress and other important regulatory bodies, published articles in scientific journals and participated in scientific confer-

ences. The industry funded independent organizations to produce research that appeared separate from the industry and would boost its credibility. The lawyers were involved in determining research funding, and unfavourable research conducted or proposed by industry scientists was prevented from becoming public. The tobacco industry used the attack on 'junk' science to influence the perception of ETS in the scientific and regulatory arenas [7].

The programme to manipulate science led the multi-national tobacco companies to co-operate [8]. In Germany, industry research programmes were organized both separately by individual tobacco companies and jointly through their trade organization [9,10]. The extensive network of scientists and scientific institutions

with tobacco industry links influenced scientific and public opinion in Germany successfully, and thereby undermined efforts to control tobacco use.

The WHO Framework Convention on Tobacco Control requires governments to be vigilant against 'any efforts by the tobacco industry to undermine or subvert tobacco control efforts' [11]. Many scientific institutions have policies not to accept research grants from the tobacco industry [12]. In 2002 the Karolinska Institute in Stockholm, which awards the Nobel Prize for medicine, cut all links with the tobacco industry [13]. All UK universities agreed a protocol for a tobacco company funding in 2004 [14]. The adequacy of journal policies regarding competing disclosures of intent and the acceptability of tobacco industry funding has been questioned [15]; none the less, many institutions and researchers accept tobacco industry research funding [16–19].

Over the past three decades, tobacco litigation has developed into a major tool for achieving public health goals [20]. The tobacco industry has spent large sums in cultivating experts and manufacturing evidence to confuse jurors and judges about relevant scientific issues [21]. So far, there has been little published information on the tobacco industry's efforts to manipulate science and the impact it may have had in its defence of legal claims against industry defendants [21–23].

The purpose of this paper is twofold: first, to explore possible linkages between the tobacco industry's scientific strategies and its legal defence, and secondly, if such linkages exist, to examine whether they could distort the outcome of cases before the courts. A product liability litigation case in Finland will be used as a case study [24].

In 1988, a personal injury case was filed in the Helsinki District Court against tobacco companies [25]. Pentti Aho's claim was based on the fact that he had been smoking Klubi and North State cigarettes from 1941 to 1986 and had been diagnosed with laryngeal cancer and other illnesses in the 1980s which, according to him, were caused by smoking. For a long period, Finland remained the only country outside the United States and Australia where a claim against tobacco companies was litigated in court [26]. The tobacco industry construed the court case as an international threat. Preparatory work was conducted in committees or groups, which assembled the companies' internal and external resources. If the case was lost, Finland would become a model country and perhaps open the gates for similar lawsuits throughout Europe.

## METHODS

Tobacco documents relating to the Finnish trials were located in the following electronic archives: tobac-

codocuments.org [all collections including Tobacco Deposition and Trial Testimony Archive (Tobacco DATTA) documents and selected Guildford documents], [legacy.library.ucsf.edu](http://legacy.library.ucsf.edu) and <http://www.pmdocs.com>. The search was conducted between December 2001 and September 2005. The British American Tobacco (BAT) documents located in the Guildford Depository constitute an important part of the material, because a BAT subsidiary was a party to the personal injury case. The search of the Guildford documents in February 2002 and December 2003 was based on file headings; file opening dates and file owners' names with 'Finland', 'Aho', 'litigation' and 'product liability' were the most important search words. Subsequently, the Guildford Archiving Project [27] has launched an electronic archive of the BAT documents at [bat.library.ucsf.edu](http://bat.library.ucsf.edu). This archive has also been utilized.

The search strategy in the electronic archives was based on the list of names of the defendant's medical expert witnesses in personal injury case. The defence invited 14 medical witnesses to give personal testimony in the Helsinki District court; 31 people produced only written testimonies. The names of these witnesses were given as search words in the internet databases. The documents were analysed by looking into the references on the type of contacts the witnesses had with the tobacco industry before, during and after litigation. The minutes of the BAT's Scientific Research Group (SRG) as well as documents from the Council of Tobacco Research (CTR) proved valuable. The plaintiff's name was used as a search word to find more general information on witness development.

Information conveyed by the documents has not been validated with the people mentioned in them, but has been supplemented by monographs prepared about the hearings by Physicians for Social Responsibility—Finland [28,29].

A major obstacle to transparency on this topic is that it was impossible to examine documents that are considered 'privileged'; that is, on matters discussed between a client (here the tobacco companies), its expert witnesses during witness preparation and attorneys.

The Philip Morris (PM) and BAT archives, however, incorporate a section which contains information on documents withheld on the basis of attorney-client privilege or some other judicial claims (the Privilege Log). This section of the archives includes only the index information on the documents and the archive can be investigated using only document Bates numbers (PM) or document titles (BAT). Privilege Logs relating to the Aho case have been scrutinized using the information on the location of the files relating to the case or using search words derived from the cases.

## RESULTS

### American expert witnesses on 'scientific controversy'

The defence had 26 witnesses to the 'scientific controversy' on smoking and health. Five appeared in person: Hans J. Eysenck, Arthur Furst, Hiram T. Langston, William B. Ober and Sheldon C. Sommers, the latter the scientific director of CTR. All asserted that the link between smoking and cancer had not been proved, when there was widespread epidemiological consensus that it had. For example, in Finland, three physicians' groups issued a statement that tobacco was to be considered a major threat to public health as early as 1960 [30]. During the Aho proceedings 63 well-known medical doctors and scientists (including almost all the medicine professors) signed a statement entitled 'Tobacco Causes Cancer' to support the plaintiff.

Twenty-three of 26 experts had received research funding from the tobacco industry before testimony (Table 1). Twelve experts worked as consultants for the industry.

The link to the tobacco industry was formed through CTR; all the experts had been involved in CTR 'special projects'. The result, if not the aim, appears to have been the creation of a network of expert witnesses available to defend the tobacco industry [2]. The US expert witnesses on 'scientific controversy' had appeared a total of 83 times between 1957 and 1983 before the US Congress, testifying that causality for smoking and certain diseases had not been proved [31]. Three of the experts delivering written statements—Henry Rothschild, Carl Seltzer and Theodore Sterling—are most well known for their consistent work for the tobacco industry [32].

Witnesses downplayed the importance of their involvement with the industry; for example, Arthur Furst, a CTR consultant in 1969–70, stated: 'CTR was and still is totally independent from the tobacco industry' [2]. Furst did not tell the Court that the tobacco industry had financed his work exposing animals to the tar found in cigarettes [21]. Sommers asserted that CTR's research was independent of the tobacco industry [33]. Later, in another case, a local defence attorney stated inexplicably that none of the tobacco industry medical expert witnesses had received funding from the industry [34].

### International expert witnesses on causation

The internal tobacco industry documents suggest that the attorneys who worked for the industry launched a large-scale campaign to develop European experts for the Aho case. [35–37]. Three major law firms—Covington & Burling from Washington, Jacob, Medinger & Finnegan (JMF) from New York and Shook, Hardy & Bacon (SHB) from Kansas City—participated in the campaign [36, 38].

The plaintiff called several Finnish practising physicians as witnesses, while the defendants were not able to propose a single Finnish medical expert before the last hearing in the Helsinki District court. The tobacco industry launched a major campaign to find local witnesses.

A list prepared in December 1990 named 118 potential experts, and nine were mentioned specifically for the Aho case [37]. The best-known were Professor Ragnar Rylander [39–41] from Sweden and UK Community Health Lecturer Petr Skrabanek [42], but neither testified in Helsinki [37, 43]. The Finns on the list were not useful. The list included a clinical chemist who spoke English poorly [37], a professor of pharmacology and a professor of environmental hygiene who declined to cooperate [38]. Industry attorneys met several Finnish experts who had made clear that they believed Pentti Aho's cancer was caused by smoking [44, 45].

The defence produced 19 expert witnesses on causation, 13 of whom were from Europe. The witnesses were younger and did not have such an extensive cooperation with the tobacco industry as did the witnesses on 'scientific controversy'. However, at least six of the 19 experts had received research funding before testimony (Table 1). At least four of the experts received funding after testifying in Helsinki [46–51]. In at least two cases the funding was discussed while witnesses prepared for their testimony [49, 50]. In at least four cases the witnesses started work as consultants for the industry at the time of the testimony [52–56].

Three experts testified on general causation in Helsinki: Frederick and Barbara Hecht from Missouri University and Kenneth McRae from London University. Frederick Hecht received funding from CTR's special projects in 1985 [57]. The PM archive contains a research plan by Kenneth McRae, aiming to determine if Bürgers disease was caused by other exposures than smoking [58]. After testifying in Helsinki, McRae was appointed to serve as the member of scientific advisory board of the Smokeless Tobacco Research Council, on which Sheldon C. Sommers acted as chairman [55].

Initially, one witness on specific causation was not as forthcoming for the industry. In April 1991 a tobacco industry attorney sent an outline for 'our controversy statement' to Philip Stell [59], a professor of medicine from the University of Liverpool. Stell met two tobacco industry lawyers in New York to discuss his forthcoming testimony in Helsinki. Later the same month lawyers sent Stell's research proposal for a review to BAT's scientific director [60]; therefore, 1 month before he was to appear in court Stell was considering prospective research funding with the company for which he was to testify. In September, BAT agreed to fund a University of Liverpool research programme under Stell's leadership with £100 000 pounds [49, 61].

**Table 1.** Tobacco industry research funding for tobacco industry witnesses in Aho case and witness involvement as consultants.<sup>a</sup>

Expert witnesses on 'scientific controversy'	Country of origin	Periods of funding before testimony	Periods of funding after testimony	Acted as a consultant	Testified before the USCongress <sup>b</sup>
Bea van den Berg	USA	1981–1989	No	No	-82, -82, -83
Rodger Bick	USA	1983–1986	1990–1992	No	-82, -82, -83
K. Alexander Brownlee <sup>c</sup>	USA	1966–1967	No	Yes	-65, -65, -69
Thomas H. Burford <sup>d</sup>	USA	1966	No	No	-64, -65, -65
Hans J. Eysenck*	Great Britain	1970–1971, 1973–1983, 1989–1990	No	Yes	-82, -82, -83
Jack M. Farris	USA	1982–1983	No	Yes	-65, -65, -82, -82, -83
Arthur Furst*	USA	1962–1981	No	Yes	-69, -71, -76, -82
L. Henry Garland	USA	No	No	No	-64, -65, -65
Harry S.N. Greene <sup>c</sup>	USA	1965	No	No	-57, -65, -65
Mariono F. La Via	USA	1978	No	Yes	-83
Hiram T. Langston* <sup>c</sup>	USA	1966	No	Yes	-64, -65, -65, -69, -76, -82, -82, -83
Cecile Leuchtenberger <sup>f</sup>	Switzerland	1955–1972	No	No	-69
Rudolf Leuchtenberger <sup>f</sup>	Switzerland	1955–1972	No	No	-69
Ian MacDonald <sup>g</sup>	USA	1966	No	No	-57, -65
John H. Mayer	USA	1966	No	No	-65, -65
William B. Ober* <sup>h</sup>	USA	1966	No	No	-65, -65, -69
Henry Rothschild	USA	1977–1982	1992, 1994	No	No
Raymond Harrison Rigdon	USA	No	No	Yes	-57, -65, -65, -69
Milton B. Rosenblatt <sup>h</sup>	USA	No	No	Yes	-64, -65, -65, -69
Henry I. Russek <sup>c,i</sup>	USA	1966–1967, 1979–1981	No	No	-64, -65, -65, -82, -82
John Edmond Salvaggio	USA	1976–1978	No	No	-83
Gerhard N. Schrauzer	USA	1982–1983	No	Yes	-82, -82, -83
Carl C. Seltzer	USA	1976–1987	No	Yes	-69, -76, -82, -83
Lucio Severi <sup>l</sup>	Italy	1966–1973	No	No	No
Sheldon C. Sommers*	USA	Scientific director for CTR	No	Yes	-65, -65, -69, -71, -76, -82, -82, -83
Theodor D. Sterling	Canada	1973–1990	1992–1994	Yes	-65, -65, -69, -76, -82, -82

  

Expert witnesses on causation	Country of origin	Periods of funding before testimony	Periods of funding after testimony	Acted as a consultant
Stig Bengmark	Sweden	No	No	Yes**
Margaret Chesney	USA	1983	No	No
Kaarle Franssila	Finland	No	No	No
Robert Fechner	USA	No	No	Yes
Barbara Hecht*	USA	No	No	No
Frederich Hecht*	USA	1985	No	No
Bo Holmstedt*	Sweden	No	No	Yes
Nils Jonsson	Sweden	No	No	No
Veli-Pekka Lehto***	Finland	1985	No	No
Kenneth McRae*	Great Britain	Unknown	No	Yes**
Heinz Meier	Germany	Unknown	Unknown	No
Kenneth Moser	USA	1977–1979, 1984–1985	No	No
Steven Nelson*	USA	No	1995–1996	No
Jan Olofsson*	Norway	No	No	Yes
Gordon Snow	The Netherlands	No	1991–1993	No
Nils Sternby* <sup>k</sup>	Sweden	1973	No	No
Philip Stell*	Great Britain	No	1991–1993	No
Kari Syrjänen	Finland	No	1990–2000	Yes**
Ismo Virtanen*	Finland	1985	No	Yes**

\* Appeared in person.

\*\* Worked as consultants after the testimony in Helsinki (McRae and Bengmark as scientific advisory board members for Smokeless Tobacco Research Council).

\*\*\* Gave written testimony for Supreme Court only.

<sup>a</sup>Source if not otherwise specified: Hiilamo H. Valheen mesenaatit [Manufacturing Lies: Tobacco Industry Research Funding In Finland], Helsinki: Suomen Ash ry & Lääkäriin sosiaalinen vastuu ry: 2004:65–93.<sup>b</sup>Unsigned. Appendix 1 Scientists Who Have Counseled Against Acceptance of The Simple Theory That Smoking Causes Certain Diseases". Undated. Accessed March 8, 2007. [http://tobaccodocuments.org/mayo\\_clinic/10010246.html](http://tobaccodocuments.org/mayo_clinic/10010246.html)<sup>c</sup>CTR Special Projects. Undated. Philip Morris/Bliley. <http://legacy.library.ucsf.edu/tid/jiv22a00><sup>d</sup>Industry Counsel. Confidential report. 06 Oct 1966. Bliley. Accessed March 8, 2007. [http://tobaccodocuments.org/bliley\\_atc/ATMXPRIV0009068-9093.html](http://tobaccodocuments.org/bliley_atc/ATMXPRIV0009068-9093.html)<sup>e</sup>Chadbourne & Parke. Confidential chart. 26 Jan 1968. Bliley. Accessed March 8, 2007. [http://tobaccodocuments.org/bliley\\_atc/MNATPRIV00038471-8485.html](http://tobaccodocuments.org/bliley_atc/MNATPRIV00038471-8485.html)<sup>f</sup>Confidential Notes. Undated. Bliley. Accessed March 8, 2007. [http://tobaccodocuments.org/bliley\\_bw/536501821-1822.html](http://tobaccodocuments.org/bliley_bw/536501821-1822.html)<sup>g</sup>Brown, JC. Confidential chart. 26 Jan 1968. Bliley. Accessed March 8, 2007. [http://tobaccodocuments.org/bliley\\_atc/MNATPRIV00041426-1438.html](http://tobaccodocuments.org/bliley_atc/MNATPRIV00041426-1438.html)<sup>h</sup>Rosenblatt M. Invoice. 30 July, 1969. Philip Morris. <http://legacy.library.ucsf.edu/tid/iyw74e00><sup>i</sup>Glantz S., Slade J., Bero L., Hanauer P., Barnes D. The Cigarette Papers. California: University of California Press; 1996.<sup>j</sup>CTR Special Project. 2 Mar 1966. Bliley. Accessed March 8, 2007. [http://tobaccodocuments.org/bliley\\_pm/21765.html](http://tobaccodocuments.org/bliley_pm/21765.html)<sup>k</sup>Thurlbeck WM. Letter to Geoffrey Felton. 23 Nov 1973. British American Tobacco. <http://bat.library.ucsf.edu/tid/iky02a99>

Stell said in his written deposition that 'it is clearly inappropriate to conclude that a single environmental factor, such as cigarette smoking, caused this man's disease, thereby excluding from consideration the many other factors, genetic and environmental, present in this case' [62]. Under oral examination, Stell admitted that smoking could have caused Aho's illness [63]. An article co-authored by Stell and published at the time of the litigation concluded that smoking is a probable cause for laryngeal cancer [64].

While there is no reason to suspect that Professor Stell gave anything other than an opinion that he honestly believed in his evidence to the Court, the Court should have been able to take into account that significant funding, in which he could subsequently be interested, was under active consideration shortly before he gave evidence. Judges were entitled to know what level of inducement was being proposed by the defendants when hearing the evidence of this witness before their court.

Professor Gordon Snow, a specialist in laryngeal cancer from the Free University of Amsterdam, stated that it was 'not scientifically possible' to ascribe the cause of Aho's cancer to smoking, as Aho had been exposed to a variety of other risk factors such as alcohol, poor diet and occupational risk [65]. Before the testimony Snow met with tobacco industry lawyers and examined the plaintiff's medical record. The tobacco industry attorney reported: 'This was only my second meeting with Dr Snow, and I was frankly surprised at how friendly and cooperative he was' [66]. In November 1989 Snow supplied the tobacco industry lawyer with a manuscript of a study on laryngeal cancer that Snow asked to be kept as confidential information, as it had not yet been published [67]; the study showed that textile and leather industry workers had a higher risk of laryngeal cancers even if smoking and alcohol use were controlled. The information was very helpful for the defence, as Pentti Aho had worked for 3 years in the textile industry and 10 years in the leather industry.

Snow's testimony took place in May 1991. In December of that year Snow wrote a letter to PM and asked if PM could support his projects [68]. Tobacco industry lawyers who had consulted with Snow in the Aho case recommended funding on the grounds that 'Dr Snow gave us a strong written expert statement on occupational risk factors for laryngeal cancer that was introduced into evidence in Aho case... Dr Snow is internationally recognized as a leader in the field of head and neck cancer surgery... We have developed a close working relationship with him' [69]. PM funded Snow through the Dutch Manufacturers Association (SSI/VNK), which from 1991 to 1993 granted US\$178 000 for Snow's project 'Genotoxic Factors and Head and Neck Cancer' [70,71]. Again, there is no suggestion that Dr

Snow's testimony was not his honestly held opinion. Nevertheless, there is no doubt that his contribution earned him credit with the tobacco industry. Perhaps if Dr Snow had known what was written recommending his request, he might have felt some concern that his evidence to the Court was regarded within tobacco industry circles as something to be traded for favours.

Steven Nelson, a professor of pulmonary disease from Louisiana University, also testified on specific causation. In May 1995, the SRG commissioned Nelson to write a review on cytokines and their role in pulmonary disease for £10 000 pounds [50,72,73]. For a separate research project on the same topic, Nelson was given £40 000 pounds [50]. In 1996, Nelson participated in the SRG meeting in Atlanta [74]. Three years later, when the Aho case reached the Supreme Court, Nelson submitted a statement which did not mention his connections to the tobacco industry. It is unclear, given the parameters of legal privilege, why these links with the tobacco industry did not emerge in his testimony [75].

Jan Olofson, a specific causation expert from the University of Bergen in Norway, had indicated that he might want to receive his fees as an expert witness as research funding [76–78]. Finally, Olofson invoiced US\$35 100 for 10 meetings and 150 hours of consultations for the testimony, which he apparently received as personal income [79]. Stig Bengmark, from the university of Lund in Sweden, was appointed to the Smokeless Tobacco Research Council's scientific advisory board in 1992 at the time he had provided written testimony in the Aho case [80].

#### Developing witnesses for Aho case—Finnish experts

The documents available indicated that industry attorneys interviewed some 20 Finnish medical doctors and scientists from four major cities—Helsinki, Tampere, Kuopio and Oulu—but only one was ready to testify in person on behalf of the tobacco companies [37,81–87]. In June 1990, SHB discussed developing witnesses for all international cases [89]. The memorandum includes the name of a contact person, Viktor E. Gould, a professor of pathology from the Chicago Russ University, who recommended Ismo Virtanen, a professor of anatomy from Helsinki University. Gould had received funding from the tobacco industry since 1983 [88–92].

Assisted by two attorneys from the law firm JMF, Ismo Virtanen wrote a statement in September 1991 in which he denied the connection between smoking and cancer [93,94]. During cross-examination, Virtanen denied that he had had any dealings with CTR [95]; however, Virtanen obviously overlooked that he had co-authored a CTR-funded paper published in 1985 [96]. As the defence's only expert from the medical profession in

Finland who was examined in person, Virtanen became a key witness.

In 1993 the public prosecutor, after consulting with the National Board of Medicolegal Affairs, prosecuted Virtanen for alleged perjury. During the proceedings the police learned that Ismo Virtanen had received US\$40 000 from tobacco companies in compensation for testimony and an expert opinion on passive smoking. It was claimed that the compensation was well above the standard rate in Finland, where compensation is calculated with regard to loss of income while preparing for the testimony and while testifying. The perjury indictment proceeded in Helsinki District Court throughout 3 years and 22 hearings. The indictment was, however, finally dismissed and Virtanen was acquitted after a 2–2 vote, the chairman voting for dismissal.

Kari Syrjänen, a professor of pathology from Kuopio University, gave written testimony in the Aho case, establishing that a tissue sample from the plaintiff was possibly infected with human papillomavirus (HPV) [97]. According to Syrjänen, that particular virus was associated with laryngeal cancer. Ismo Virtanen, although not a virologist, testified that HPV was the most likely cause of the plaintiffs' cancer [98].

At the time of preparing the testimony, Syrjänen applied to PM and BAT for a grant to study the natural history of HPV infections in the lower female genital tract and their association with intraepithelial neoplasia and genital squamous cell cancer [99,100]. After submitting an application for tobacco industry funding Syrjänen was asked to omit all references to smoking in his project, which Syrjänen did [101]. Both PM and BAT agreed to finance Syrjänen's project, but with the proviso that company scientists were to review the project in order 'to be in a position of being able to say that company scientists, not lawyers, reviewed and approved the proposal based on scientific content and merit', as a PM attorney wrote to his colleague [101–103]. After submitting written testimony for the Aho case, PM Europe scientist Helmut Gaisch included Syrjänen on a list of 'persons who have helped us in the past and who are potential friends for future needs' [54,104]. The actual title of the list was 'Potential Witnesses or Scientists Able to Help in Finding Witnesses'. In 1993 Syrjänen received a consultant's fee of US\$2340 from the law firm JMF [105].

Subsequently, Syrjänen was dismissed from his work as a professor for not reporting tobacco industry research funding in his personal taxation, for which he was sentenced to probation [106–108]. Syrjänen moved to Italy to the University of Siena, where his salary was paid by both BAT and PM [109]. After another professor from Kuopio University was suspected of not reporting tobacco industry funding to the university and tax officials in

2005, the Kuopio University board decided not to accept tobacco industry funding [110].

When the Aho case reached the Supreme Court Veli-Pekka Lehto, a Finnish professor of medicine, who was recorded as one of Virtanen's co-authors in the paper funded by CTR, submitted written testimony on the Defence's behalf for the court. It is also worth noting that Lehto assisted Virtanen's defence in the perjury case [96,111,112].

## DISCUSSION

The findings demonstrate that research funding, whether past, present or prospective, was a significant and material factor in the defence's expert witness development for use in the Aho case. By granting research funding, the industry created a pool of experts who were willing either to testify or to recommend other potential medical expert witnesses who could testify on behalf of the industry. Thirty-three of 45 medical expert witnesses called by the defence received research funding before or after the testimony. Nineteen worked in various positions as consultants for the industry. It appears that the tobacco industry employed at least two strategies to recruit witnesses; the first was to employ those scientists as witnesses with whom the industry had worked since the 1960s. These more experienced witnesses testified to the existence of a controversy which they had, in fact, helped to create. Another strategy was needed to find experts from Europe. It involved lawyers meeting experts and joint preparation of testimony. Research funding was used as a means to generate, cement or consolidate contacts with potential witnesses.

The Aho case proved a watershed in tobacco industry research funding. As an association between smoking, including ETS, and disease causation became more generally accepted, testimonies on 'scientific controversy' lost importance [113]. Only three of the experts on 'scientific controversy' are recorded as receiving research funding after giving evidence in Aho's case.

However, the issue on specific causation remain important for the industry. Tobacco industry research appears to have been directed to produce findings to support the industry's arguments [100]. The input of such funded researchers was utilized later by the industry both in lobbying and in litigation [21,54,56,114–116].

One can only speculate as to whether these medical expert witnesses' now clearly visible links with the tobacco industry influenced unduly the process of the court. It is a fundamental right in Finnish law, as in other jurisdictions, that a party in a civil or criminal litigation may call a witness on his or her behalf. It is up to the judge(s) to decide if the witness's evidence is helpful in establishing the truth in the case. Whether or not seeing

the extent of those links would have made any difference to the outcome of the case will never be known.

For the US context, Friedman *et al.* suggested that plaintiffs should use standards established in a particular case (Daubert) against a pharmaceutical company to exclude tobacco industry defendants' scientific expert witnesses [117,21]. The criteria set by appeals court in the Daubert case for whether expert testimony should be admissible included: (1) whether testimony was prepared in anticipation of litigation, (2) whether there is a likelihood of evident bias towards a particular conclusion in the scientist's testimony and (3) whether the expert has based his testimony on pre-existing or independent research [118].

Legitimate grounds for concern exist, based on the evidence now available concerning the defence expert witnesses' involvement with the tobacco industry in relation to the Aho case. While the extent of lawyers' participation in the preparation of the expert witnesses' testimonies is unclear, insufficient evidence concerning many of the experts' past, then present, or prospective, links to the tobacco industry (whether as consultants or through research funding) was available to the courts at the time. It denied those courts the opportunity to assess for themselves the impact posed by this actual or potential funding on the degree of independence, objectivity and credibility to be accorded to any particular expert's evidence.

The defence experts' testimonies on 'scientific controversy' were not based on independent research. The defence witnesses were all at some time either the beneficiaries of or helped the tobacco industry (see Table 1).

## CONCLUSIONS

The Aho case illustrates that it is very difficult for the judges to assess differences in opinions in matters of scientific nature, e.g. if a tobacco manufacturer is to be blamed for the plaintiff's disease. Safeguards that remove any concerns that expert opinions may be unduly influenced by the objectives of the experts' paymasters should be established. Given the tobacco industry's record of manipulating science, it is essential that the standards established in the United States should be extended to all courtrooms where the tobacco industry is a party. Tobacco litigation is a paradigm for product liability lawsuits against manufacturers of handguns, lead paints, fast foods, drinks and other products [119].

A possible indication of the success of the tobacco industry campaign in its recruitment and use of expert witnesses in relation to the Aho case is that the Supreme Court dismissed the product liability suit in June 2001 by a vote of 4–1. The majority had accepted the general causality between smoking and illnesses, but was not

convinced that smoking had caused the plaintiff's illness. In the absence of internal tobacco industry documents, the courts could not evaluate fully the possibility that past and prospective tobacco industry funding may have secured or influenced evidence given by tobacco industry expert witnesses.

The Aho case dates from the early 1990s. The publication of the internal tobacco industry documentation has already exposed and led to changes in tobacco industry practices harmful to public health, which secrecy had previously permitted to continue. However, the tobacco documents may still be useful in many countries to prepare reliable procedures to ensure that those countries' courts can review fairly and on an informed basis the objectivity and degree of independence of future tobacco industry scientific expert witnesses; and, in so doing, to take due account of prior research materials referred to by them, and any remuneration or other benefits received or possibly to be received by them.

The same ground-rules should be applied by the Court when considering the expert evidence of those giving evidence on behalf of plaintiffs against the tobacco industry. Those experts would also be expected to reveal the extent of their independence and any connections, including research funding, from which they benefit, with anti-tobacco campaigns, lobbying or research programmes.

Universities and research institutes who continue to accept tobacco industry funds must acknowledge the risks that funding may relate to witness development of their academics for the benefit of current or future tobacco litigation. Contrary to tobacco industry funding proponents, tobacco industry funding policy is not dictated solely on scientific merit.

## Acknowledgements

This work was supported by grants from the Kone Foundation. I would like to thank Norbert Hirschhorn for his valuable comments.

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# TOBACCO INDUSTRY DOCUMENTS FROM OUTSIDE SOURCES: NEW PERSPECTIVES ON INDUSTRY STRATEGIES ON LOCAL LEVELS

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## SUMMARY

The internal tobacco industry documents have also been used to study tobacco industry operations outside the United States. The scope of the documents on a country outside the US is decided mainly by the extent to which documents and reports were transmitted from the abroad offices of the US tobacco companies to headquarters. We explored whether the material from a private archive of a Finnish public relation consultant to Philip Morris will augment or revise the earlier reports on tobacco industry manipulation in Finland. The private records add more details to previously published reports. The new information mainly concerned implementation of the tobacco industry strategies. A general conclusion is that tobacco industry documents may not give a detailed picture of tobacco industry activities in distant markets, which would be of interest locally, even if they provide sufficient information to convey a general view of tobacco industry strategies.

*Key words:* tobacco industry document research, tobacco industry strategies, tobacco lobbying in Finland

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## INTRODUCTION

After a more than a decade of tobacco industry document research (TIDR) it is clear that the activities of tobacco companies are becoming better known than any other globally operating industry (1). The document have also been used to study tobacco industry operations outside the United States (US), even in small countries such as Singapore (2), Uzbekistan (3), Hungary (4-6) and Finland (7-8). The reports raise questions concerning the limitations of the document source. Tobacco industry documents originate from tobacco litigation in the US. No industry keeps every document it produces, especially if they are produced in a distant country. (9) The scope of the documents on a country outside the US is decided mainly by the extent to which documents and reports were transmitted from the abroad offices of the US tobacco companies to headquarters. While operating on distant markets the international tobacco companies may, for instance, have used subcontractors who might have not reported about their operations. Consequently, activities of the US tobacco companies in distant markets might be under-represented.

The information on the comprehensiveness of the tobacco industry documents is particularly relevant to Central and East European area with a number of countries where international tobacco companies not only invaded the markets by making their product widely available, but also introduced sophisticated lobbying and marketing tactics (4). Central and Eastern Europe has witnessed a dramatic rise in premature mortality in middle-aged men (35–64 years) that has not been recorded in any other parts of the world. (10) It is estimated that there are more than

700,000 deaths per year related to tobacco in Central and Eastern Europe. The analysis of the industry behaviour in Central and East European region provides lessons for tobacco control advocates from developing countries, which are expecting transnational tobacco companies entering their markets (4).

So far it has been almost impossible to assess the number of documents that never entered the records. A case in Finland could provide some leads to the dilemma. In 2003 the Cancer Society in Finland received a private archive of a person, Matti Otva, who worked as a public relation consultant to Philip Morris (PM), the most influential international tobacco company in Finland, and its licensee Amer-Tupakka. The files indicate in greater detail what was going on in tobacco lobbying at the local level. Similar caches of documents could also be available in other countries (11). In the following report we explore whether the material from the private archive will augment or revise the earlier reports on tobacco industry manipulation in Finland. The study will also provide general information on the limitations of the tobacco documents.

## MATERIAL AND METHOD

The material possessed by the Cancer Society consists of some 1,000 pages of correspondence and memoranda. Otva's records deal mainly with public relations matters. In the following we will compare the information on tobacco lobbying contained in Mr. Otva's documents with earlier reports on tobacco industry manipulation in Finland (7-8, 12). The analysis is supplemented with

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systematic search of tobacco industry documents published online. The aim is to evaluate whether TIDR establishes a comprehensive picture of tobacco lobbying in a distant market. Information conveyed by the documents has not been validated with the people mentioned in them (1) \*.

## RESULTS

What is known from earlier TIDR on Finland is that the tobacco industry began to take a special interest in the Nordic countries since Iceland proposed harmonizing tobacco legislation in those nations in 1987 (13). To counter the adverse proposal PM started to work with local manufacturers against the Nordic Council (14). Philip Morris employees identified Sweden and Finland in particular, as priority areas for action because the dangers of secondhand smoke had received extensive media coverage there and because both SAS and Finnair, the national airlines of Sweden and Finland, had contemplated or were preparing to implement smoking restrictions.

Before the mid 1980s, PM argued that the Nordic market was characterized by a lack of coordinated lobbying activity. Motivated by the ETS threat PM was reviewing plans and hiring corporate affairs staff specialists to strengthen the National Manufacturers Associations (NMA) in each market. In October 1987 Matti Otva was addressed as an NMA's "PR-man" (15).

Otva was also mentioned in December 1987 as a person to be contacted in order to market the In-Air-Quality study. Sponsoring that type of studies was one of several tactics the tobacco industry employed in attempts to reverse or delay implementation of in-flight smoking restrictions (13). Otva had been working as a journalist for many years, also as an editor-in-chief for Finnair in-flight magazine (16).

In April 1988, EEMA Corporate Affairs meeting discussed about recruiting Matti Otva as a person who could undertake the work "to get industry's viewpoints printed" and possibly act as a "spokesperson" for the industry (17). At first Otva worked for the public relations agency Sek & Greys. In that capacity Otva visited Neuchatel in late 1989 (18). Later on Otva established an agency of his own.

### Tobacco Lobbying

The TIDR on lobbying in Finland has established that the international tobacco companies utilized similar strategies in Finland as in other industrial markets to fight tobacco control. The description of strategies is detailed but most of the target names are missing. The PM documents discuss government relations programs, for instance (19), but no single cabinet minister in Finland is mentioned in the documents as a recipient of PM's hospitality.

Otva's papers, however, give more details. In 1989 Otva proposed inviting a certain cabinet minister to Switzerland: "As an eager skier the minister might be interested in visiting Lausanne and one of the Swiss ski resorts as guest of PM. The matter should be handled without any publicity. The most natural way to arrange the skiing trip sponsored by PM would be to connect it with one of his other trips" (20). It seems that hospitality was well received. In

1990 he gave a statement criticizing advertising ban (21). In 1992 the minister invited Amer Tobacco's managing director to a golf evening and to the government's manor K onigstedt (22).

In 1990, the tobacco companies found that the Ministry of Social Affairs and Health had drafted a proposal for a new tobacco act in autumn 1990 (7). As a result of tobacco industry lobbying efforts the proposal did not come before parliament (7); but in 1992, Amer-Tupakka discovered that the bill had been revived. TIDR describe a major lobbying effort to counter the proposal. It is obvious that lobbying was facilitated with trips and lunches for key persons (23). However, that is not made explicit in the documents. To slow down the development and implementation of the Tobacco Act in Finland PM established, among other things, direct contact with the Minister of Social Affairs and Health and his chief advisor as well as arranging briefings for MP's and labor union representatives.

While proposal for a new tobacco act was processed in the parliament, Otva was reporting on weekly basis. Otva's reports included very detailed descriptions of the internal issues of the ministry of health and social affairs which prepared the proposal for Tobacco Act amendment. The main issue was that the Head of Office of the ministry was suffering from a drinking problem and had lost power. The reports indicate who were the most influential person at each particular moment (24).

Otva gave very detailed recommendations for lobbying. Otva proposed exact phrases of wording for the amendments to the act. For example, in 1994 Otva recommended that PM should lobby for introduction of an additional resolution to the act. The resolution would oblige the government to synchronize Finnish tobacco legislation with the corresponding legislation in the European Union (25). He also provided names of the contact persons and persons who could act as tobacco industry "spokesmen". Otva proposed e.g. that Managing Director of the Central Chamber of Commerce could influence MPs on the tobacco law. "In his statement he would use the tobacco law as an example in reminding the Parliament of the promise to diminish guardianship and bureaucracy in the society. The managing director can also quite naturally be worried about the working conditions of Finnish business and industry" (26). The role of the "spokesmen" is illustrated as Otva, after discussing various methods to influence the parliament, states: "Some of the eventual information measures should be performed in the name of the industry itself, and some of the by the help of credible third parties" (26).

A main lobbying strategy against the new tobacco law was to contact the representatives of the Finnish labor unions, which are key players in formulating and winning support for social legislation in Finland. Somewhat earlier, the leaders of these organizations were sent on a PM VIP trip to Switzerland (27).

A letter from PM manger in Finland in March 1992 stated that the blue collar workers Union, SAK, which had initially taken a positive view of listing tobacco smoke as a carcinogen, was after briefings with a tobacco industry lobbyist willing to change its position (28). However, in November 1992 Otva reported that an official in the ministry of health and social affairs had informed his colleagues that blue collars unions officials were supporting the proposed amendments (29). That gave the ministry new energy to push through the proposal. The notion is particularly interesting.

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\* We have decided to omit proper names mentioned in the documents as they are no longer relevant for tobacco control in Finland today.

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The time when the union officials changed their opinion could be the decisive movement when the outcome of the tobacco act amendment was actually decided.

Tobacco companies created International Tobacco Information Incorporated (INFOTAB) to establish an "early warning" system for anti-smoking initiatives worldwide, to "track activities of pressure groups and international consumer unions" and "to take industry programs to the grass roots and municipal levels" to help the industry to prevail over public health efforts to control tobacco (30). To gain more information and supplement services offered by INFOTAB, tobacco companies hired communications agencies to gather information in Finland. Subcontractors assisted the industry in translating clippings and other published material and in identifying relevant research and decision makers. Otva's PR company made an offer to monitor news media in Finland (31). Apparently the offer was declined.

One of Otva's most interesting papers is a memorandum of PM's Nordic bimonthly corporate affairs meeting in November 1990 (32). Publicly available tobacco documents include similar memoranda describing PM strategies and their implementation but this particular document is missing. The meeting evaluated, among other things, the International Smokers' Rights Conference which was held in Helsinki in October. Similar examples of internal memoranda not entered in the publicly available tobacco documents are lists of corporate affairs accountabilities for Nordic area in April-May 1990, in February – March 1991 and September – October 1991 (33-35). The documents are rich in details on how PM strategies were implemented on local level.

The published tobacco documents contain information on several PR-trips. However, the information on participants is scarce. While the new tobacco act was processed in the parliament Otva wrote weekly reports for PM. In 1992 Otva reported to PM employee Johan Puotila that a secretary of the center party's parliamentary group, had just returned from "B-trip" to Tokyo and requested that departure from Monaco would not be very early in the morning (36). In 1993 Otva reported about a "hungry secretary". According to Otva the secretary had let it be known that he would gladly accept an invitation to lunch to discuss about tobacco act (37).

Later on Otva reported that Johan Puotila had met with the secretary: "The secretary is satisfied – he was and will be provided with tangible written material about the tobacco law bill. After going into the material he will be able to present well-founded views and opinions about the bill" (38).

Otva mentions also two party officials for the conservative party: "One official is as greatly interested in hospitality as the other official. I've answered to the official that everything will be arranged at its time but those who I represent tend to be friendly to those who are friendly to them" (39).

PM invited both officials to a "fact-finding tour to Harare, Zimbabwe" to give "firsthand experience of tobacco farming and industry" (40-41). However, the officials canceled the trip (42).

In week 19 of 1994 Otva reported about a trip which the Amer-Group had paid to some decision-makers to the Ice Hockey World Championship Games in Milan (43). The information about the trip had leaked outside the travel group. A year before the corresponding trip caused negative publicity to tobacco industry as the chairman of the parliamentary group for the conservative party leaked the information to the press.

## **Friendly Journalists**

Journalists sympathetic to the tobacco industry provided fertile ground for the arguments of the tobacco companies, which claimed that the health effects of smoking were not proven and thus no regulation was warranted. PR Otva devised a list of potentially "friendly journalist" with detailed background information e.g. on their tobacco status and attitudes

Otva also tried to arrange PM support to Ski Club International des Journalists (SCIJ). "The members of the SCIJ are probably the most influential group of journalists in the world today. PM now has the opportunity to obtain the good-will of this elite group for a comparatively small contribution" (44). PM/New York was not keen on the club as it believed that the members consisted of second rank journalist only. Otva tried to prove that this was not the case e.g. by mentioning that one of the members had interviewed Saddam Hussein in 1984 (45).

Only two publicly available tobacco industry documents mention in passing the Nordic Film Festival, a PR event sponsored by PM (46-47). Otva's documents include a memo by PM's Nordic spokeswoman Ingemo Bonnier which gives detailed account of PM's objectives and strategies with regard to Nordic Film Festival (48). First of all PM aimed to increase social acceptability of the company "through positive association with an event which is seen and reported as beneficial to the Nordic markets" (48). The event also allowed PM to foster contacts with "leading Nordic journalists" and with an "exceptionally important Nordic journalist residing in the US".

Otva was also in correspondence with an PM official to arrange tolerance conference in Finland with the aim to introduce Libertad, a third party mouthpiece for PM to support freedom of commercial speech (49), in Finland (50). The fact that PM had representatives among the visitors was not allowed to be mentioned (51). The meeting was to take place in Helsinki June 1990 with Lord Henry Plumb, former president of the European Parliament, and with some prominent speakers from Finland (52). While with the European Parliament Plumb was a very important contact person for the tobacco industry (53-54).

Otva's papers show that Amer was trying to persuade PM to sponsor the Mannerheimexhibition in Switzerland in 1991 (34, 55). Carl Mannerheim is a national hero in Finland, the war time commander-in-chief and former president who died in Lausanne, Switzerland in 1951.

Otva also arranged connection with influential persons abroad. In 1991 Otva wrote to Stig Carlson PM's corporate affairs director in Europe, about Carlson's request to meet with Turkey's prime minister Mesut Yilmaz (56). The letter included list of contact persons in Turkey. In 1992 Otva wrote to Stig Carlson that the foreign affairs committee of the Finnish parliament is about to embark on a trip to Iran, Pakistan and Nepal. "I could try to get a member of the committee as your 'camouflaged representative' to promote your interest", Otva wrote (57). A day earlier Otva had provided Carlson with contact persons to Iran on Carlson's request (58).

## **Smokers' Rights Groups**

The published tobacco documents describe how tobacco industry used the Smokepeace movement in promoting the "accommodation message" also in Finland. It is clear from the documents that the association presented as a spontaneous NGO was actually controlled by the tobacco industry. More detailed

information is included in Otva's papers. As a paid PR-specialist Otva was a member of the board in the Finnish association. Otva e.g. took responsibility of digitalizing the membership records and devised a statement on tobacco taxation. Otva was also involved in recruiting new members for the association (35, 59). According to a board meeting minute a BAT employee and a Amer-Tobacco employee took part in the meeting of the information group of the association in August 1991 (60).

PM devised strategies for Smokepeace associations in all Nordic countries at the same meetings (61). At the time the criminal proceeding against tobacco company directors in Finland became public Otva proposed writing letters-to-the-editor where the law suit would be ridiculed and the ongoing product liability litigation portrayed as contempt of the court.

## DISCUSSION

The private records add more details to previously published reports. The new information mainly concerned implementation of the tobacco industry strategies. The records include not only private documents but also some produced by PM which have not been made available on the PM document web site. This suggests the limitations of the published tobacco industry documents.

The private records illustrated, for example, how connections with influential persons in Finland were used for lobbying in Turkey and Iran. The records also included lobbying plans that were not implemented. Nonetheless, Otva's records do not contain material of PM's strategies in Finland that would lead to a sharp reconsideration of the earlier reports on tobacco industry manipulation in Finland.

Otva's material is by no means exhaustive, and it may only give clues on the limitations of the tobacco documents generally. The same problems of reliability apply to Otva's material. Otva may have cleaned his own archive of the most disturbing documents and/or exaggerated tobacco industry's lobbying efforts.

## CONCLUSIONS

A general conclusion is that tobacco industry documents may not give a detailed picture of tobacco industry activities in distant markets, which would be of interest locally, even if they provide sufficient information to convey a general view of tobacco industry strategies.

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*Received March 29, 2006  
 Accepted in revised form June 19, 2006*

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### **Riede, U.-N., Werner, M., Schäfer, H.-E., editors** **Allgemeine und spezielle Pathologie**

Fifth completely updated edition. Georg Thieme Verlag: Stuttgart, 2004. XXVII + 1236 pages. Format 95 × 265 mm. Binding: Hardcover. Price: Eur(D) 79.95, CHF 128.00. ISBN 3-13-683305-8

The list of contributors comprises 47 experts from Germany, Austria and Switzerland, mostly university professors in the field of pathology. As stated in the introduction by the first editor, professor U.-N. Riede (Institute of Pathology, Freiburg), the pathology is defined as the study of suffering and injury straighted up the patient. It is intended to clear up the disease as a cause of suffering. The didactic framework delineating individual chapters in the special part comprises ontogenetic lesions of genetic origin and metabolic disturbances, caused by lesions of structure and disorders of metabolic activity, as well the degenerative and dystrophic tissue changes. In a similar way analysed are toxic lesions, inflammations, neoplastic lesions, functional and circulatory disorders. Moreover, highlighted are not only morphological and objective changes, but also symptomatic and subjective points of diseases.

The volume is composed of 20 chapters. All chapters are subdivided into several subchapters and are arranged into two thematic groups or parts: representing both general and special pathology.

General parts (chapters 1 through 8) include disturbance of cellular and extracellular organizations, metabolic disorders, miscellaneous disturbances of cell functions, disorders of immune response including pathology of inflammations and microbial lesions, failures of heredity and development, disorders of cell growth: regeneration and tumour pathology, and circulatory disorders.

Special parts (chapters 9 through 20) give attention to pathology of individual organs and organ systems. Nominally, to the cardiovascular system, the haematopoietic and lymphatic systems, respiratory organs, digestive apparatus, hepatopancreatic system, uropoietic system, female genital organs and the placenta, male genital organs, epidermodermal system, endocrine organs, ner-

vous system, and finally the locomotor system. Textual parts of this volume are concluded with a comprehensive glossary related to pathology. Key terms given in Latin provide access to relevant significance in German.

The volume is illustrated with 1720 figures demonstrating a wealth of impressive pictures of exceptional quality, mostly given in colour. Featured are photographs of general clinical appearance of selected diseases, anatomical structures, dermatologic changes, organ images, histological tissue lesions, line drawings presenting schematic overviews of functional and morphological pathways, topographic relations, diverse biopathological phenomena, schemes related to inflammations and infections, and many more. Another feature there are 168 summary tables offering overviews of metabolic disorders, clinical characterizations of diverse disorders, various infections, differential diagnostic aspects, development of neoplastic changes, and many more.

Unique of its representation, this new edition *Allgemeine und spezielle Pathologie* covers all aspects of pathological anatomy. It is a valuable textbook which offers essential knowledge for understanding disease development and analyses important foundation for general study and medical activity. Respected here are rapid recent advances in molecular biological research which help to understand the causes of pathological processes. Furthermore, concentration has been placed on particular relations between morphology, functions, clinical and practice related aspects.

In this edition, the editors and authors created a readable, attractive and comprehensive (weighing about 3 kg) handbook for advanced and postgradual students and a serviceable resource for German speaking professionals in most branches of medicine.

*Jindřich Jira*