

What has changed the litigation dynamic in the Engle class action and in successful individual cases in California and Oregon, and has brightened the prospects for such litigation worldwide, is the widening availability of incriminating internal documents from the industry.⁵ The Engle jurors pointed to these documents to explain and justify their gigantic verdicts. Indeed, jurors generally seek to interpret the cases before them as morality plays. When the documents have been introduced, jurors see the defendants as greedy, callous, deceptive, and manipulative and rule for the plaintiffs, often awarding punitive damages to boot. When the documents have not been admitted into evidence, however, jurors continue to characterise the plaintiffs as weak willed, head in the sand, and hedonistic, and hence rule against them.

Although the documents were unearthed largely as a result of litigation brought by state attorneys general in the United States, they provide evidence of a worldwide conspiracy. The article in this issue by Francey and Chapman uses these materials to show how, two decades after the cigarette manufacturers first hatched their American disinformation campaign in New York's Plaza Hotel, they met at an estate in Berkshire in England to replicate the campaign for the rest of the world (p 366).⁵ This evidence will be useful for litigation everywhere. Similarly, evidence from these documents apparently played a part in the European Commission's announcement last month that it plans

to sue in the United States alleging involvement by American cigarette makers in European smuggling.⁷

In the face of potentially bankrupting litigation in the United States and abroad, tobacco companies will probably once again seek relief through congressional legislation granting them legal immunity. The industry would probably agree to jurisdiction from the Food and Drug Administration, and other concessions, to secure such legislation. The public health community needs to begin informed, inclusive, and intensive discussions about how to remain cohesive and effective in responding to possible bankruptcy, "global settlement," and other "endgame" scenarios.

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The truth about big tobacco in its own words

It is time to truly open up British American Tobacco's depository in Guildford

Education and debate
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The recent completion of the "first draft" of the human genome was big news because it promised understanding of the causes, treatment, and prevention of human disease. There is, however, another map that holds as much promise for curbing disease: depositories containing millions of pages of previously secret tobacco industry documents. Unlike bacteria, fungi, and viruses that spread disease, however, the tobacco industry employs sophisticated lawyers and public relations experts—and even scientists—to distort the scientific and political process.^{1,2} These documents give us our first clear understanding of how the tobacco contagion works.

The industry has for decades denied the obvious—that nicotine is addictive, that smoking and second hand smoke cause a wide variety of diseases, and that cigarette advertising recruits children and keeps adults smoking. It has used this wall of rhetoric to provide cover for the actions of politicians designed to protect the tobacco industry at the expense of public health.

In 1998, as part of the settlement of a lawsuit filed by the attorney general of Minnesota, the American tobacco companies were forced to make public 40 million pages of previously secret documents kept in a depository in Minneapolis, and British American Tobacco was forced to do the same in Guildford in the United Kingdom. Later, as part of a settlement of lawsuits by 46 other states led by Washington's attorney general, the American tobacco companies (but not

British American Tobacco) agreed to post their documents on the internet (www.tobaccoarchive.com). These, together with other documents produced to a British parliamentary inquiry, form the basis for three papers in *BMJ*.³⁻⁵

Klein and StClair show that both the tobacco industry and the confectionery industry knew that candy cigarettes encourage young children to smoke and that they mounted effective campaigns to hide this truth and distort scientific research to protect the use of this effective promotional device (p 362).³ Francey and Chapman document that in 1977 the multinational tobacco companies agreed to "Operation Berkshire" (p 371).⁴ This was a secret plan designed to implement the same conspiracy outside the United States that the 1954 agreement at the Plaza Hotel in New York City did in the United States,¹ when executives agreed not to acknowledge the dangers of smoking and to set up a coordinated defence for the industry. Finally, Hastings and MacFadyen show that the industry knew that advertising recruited new smokers and kept people smoking (p 366).⁵

While not earth shattering to people who have observed the tobacco industry over the years, the fact that these conclusions are based on the industry's own words makes them compelling to policymakers, the public, and (at least in the United States) the courts.

Most of the quoted documents so far have come from the Minnesota depository and are now available

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on the internet. Probably the most important documents, however, are sitting in the British American Tobacco depository in Guildford, where they are nearly impossible to access.

In addition to important information showing that British American Tobacco, like the other tobacco companies, covered up its own research on the dangers of tobacco use and the addictiveness of nicotine, these documents contain information that shocks even hardened anti-tobacco activists: the tobacco companies use smuggling as an integral part of their marketing efforts to enter new markets, control prices, and influence government policies.⁶ These actions have raised the concern of a parliamentary health select committee⁷ in the United Kingdom and various law enforcement agencies in the United States and elsewhere.⁸

Not surprisingly, British American Tobacco has not made it easy for the public to use the Guildford depository. Unlike the Minnesota depository, which is open 12 hours a day, Guildford is open for only six. Unlike Minnesota, which is open to all, Guildford is open to only six people at a time, and all six have to be working together. Unlike Minnesota, which promptly provides copies of material, British American Tobacco takes 4-6 months, then often withholds information behind vague claims that it is "protected material." Most important, British American Tobacco has refused to place this material on the internet with an adequate index. These actions make it difficult to use this material in research and policymaking and make a mockery of British American Tobacco's agreement to make this material available to the public.

The parliamentary health select committee has called attention to these problems and asked that British American Tobacco make the material as available

as the US documents.⁷ The company acts as if it does not know how to meet this simple request.

It is time for parliament to compel British American Tobacco to produce the entire depository to a neutral party that will promptly make the material available to all on the internet. Doing so will help public health end the man-made epidemic that British American Tobacco and the other tobacco companies are spreading into the developing world. It will force the truth out of the shadows and into the public eye.

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WHO faces up to its tobacco links

Report provides compelling evidence for transparency about competing interests

Five years ago I wrote a critique of the World Health Organization in the *BMJ*.¹ One of my sources was a report by an American economist, Richard Tollison, which tore apart the WHO's budgetary priorities. Tollison's main claim was that too little of the WHO's money was spent on improving health in the developing world.² One statement quoted in the *BMJ* ran, "The poorest nations in WHO are interested in basic public health, and not in the more exotic forays of WHO into the public health issues of the modern industrialised West."³ What I and the *BMJ* and its readers didn't know, because the report didn't say, was that Tollison was in the pay of British American Tobacco. Nor did we know that such covert funding of "independent" commentators was just one part of an elaborate campaign by the tobacco industry to discredit the WHO and divert money and attention away from tobacco control activities.

The WHO has been concerned for some time about the poor success of its anti-tobacco initiatives. The forced disclosure last year of 35 million pages of confidential tobacco industry documents alerted the WHO to the possibility of direct interference and led

its director general, Dr Gro Harlem Brundtland, to set up an independent inquiry. The four external experts published their report this week.⁴ In it they conclude: "To many in the international community, tobacco use prevention may be seen as a struggle against chemical addiction, cancers, cardiovascular diseases and other health consequences of smoking. This inquiry adds to the mounting evidence that it is also a struggle against an active, organised and calculating industry."

The report gives insights into the lengths to which an industry may go to protect its interests and into the methods it uses. Although influential, Tollison was a minor player compared with Paul Dietrich, an American lawyer with long term undisclosed ties to tobacco companies. According to the report, Dietrich's role was to undermine the WHO's credibility, raise questions about its mission, and redirect its priorities away from tobacco control. Dietrich himself denied links with the tobacco industry when interviewed by the inquiry committee. But the industry documents present a picture of a lengthy financial relationship in return for advising tobacco companies, writing articles attacking the WHO (published in major US newspapers), giving media

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