

Do candy cigarettes encourage young people to smoke?

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Advocates of public health care consider candy cigarettes (cigarette sweets) one example of the way in which international trademark or copyright laws are violated to promote tobacco products to children.^{1 2} People with vested interests in confectionery and tobacco have denied these claims and argued that restrictions on confectionery resembling tobacco products are unnecessary. We review recently available documents from the tobacco industry, which describe cooperation between the manufacturers of tobacco and candy cigarettes, ineffectual trademark enforcement, evidence that candy cigarettes may promote smoking, suppression of unfavourable findings from research sponsored by the confectionery industry, and successful attempts to avoid legislation or regulation.

Methods

We searched for items referring to “candy cigarettes” and related terms from several sources. We identified public documents, government records, and journal articles by using Nexis to search news articles in English from 1980 to 1999. We also searched indexed documents from the files of American Tobacco, the Council for Tobacco Research, the Tobacco Institute, Lorillard, Philip Morris, R J Reynolds, and Brown and Williamson (collected at the Minnesota Tobacco Document Depository). Of 571 documents identified, most were summaries of proceedings of distributor associations for tobacco and confectionery containing no references to candy cigarettes; 153 documents addressed candy cigarettes, and these were analysed. Additionally, we searched Medline (1964 to date), Westlaw, a legal database of US court decisions, and the files of the Iowa Department of Justice, which in 1997-8 had examined candy cigarettes as an influence on under-age smoking.³

The candy cigarette industry

The earliest days of the US candy cigarette industry are obscure; however, Victoria Sweets, “the home of chocolate cigarettes,” claimed to be “the original manufacturers of Kiddie cigarettes since 1915.”⁴ By 1939, cigarette makers authorised the use of cigarette pack designs on packs for candy cigarettes.⁴ One confectioner boasted “[w]e put out the candy cigaret packs by the millions,” touting “the tremendous advertising factor” to “coming up cigaret smokers.”⁴

Currently, the two major producers of candy cigarettes in the United States are Stark (acquired by New England Confectionery in 1990⁵) and World Can-

Summary points

Candy products that mimic packaging of tobacco brands may promote smoking in young people

Executives of both the tobacco and confectionery industries have regarded candy cigarettes as good advertising to future smokers

Some tobacco companies granted confectioners permission to use cigarette pack designs and tolerated trademark infringement

Children who have used candy cigarettes are more likely to become smokers

Unfavourable research sponsored by the US candy cigarette industry was suppressed

Elimination of candy cigarettes and other confectionery resembling tobacco products may help achieve public health goals of reducing tobacco use in young people

dies. Several of the candy cigarette packs produced by New England Confectionery, which imitate Brown and Williamson cigarette brands, purchased in 1994 in New York State are shown in the figure. Today, New England Confectionery calls its candy cigarettes “candy stix.”⁵ Candy cigarettes produced by World Candies have been sold under names that mimic cigarette brands, including Marlboro, Winston, Salem, More, and Vantage.^{6 7} World Candies also sells bubble gum cigarettes. These are wrapped in white paper, with brown paper resembling a filter at one end. When a child blows through the product, confectioners’ sugar billows out of the end like smoke. By 1997-8, candy cigarette packs no longer exactly duplicated particular cigarette brand names, but design features resembling cigarette packs persisted.^{5 6} Nevertheless, at the time, the presidents of World Candies and New England Confectionery denied that their companies made products that could be considered candy cigarettes.^{5 6}

The suggested retail price for a pack of candy cigarettes produced by World Candies or New England Confectionery is between 10 cents and 15 cents (15p and 23p respectively).^{5 6} Miniature versions, often marketed during Halloween, contain two white candy sticks each with red dye at one end at a suggested price of 5



Candy cigarettes could be mistaken for real brands

cents (7p).⁸ These prices are low compared with other candy or gum products for children.⁸⁻¹⁰ Although little is written about the market for candy cigarettes, in 1967 World Candies said that candy cigarettes were consumed mostly by children between the ages of 4 and 8.⁹

Low prices make candy cigarettes more affordable than other confectionery, an important feature for products marketed to young consumers. Candy cigarettes often escape adults' notice because they are usually displayed on the lowest shelves in the shop.¹⁰ But candy cigarettes are not hard to find. In Iowa, three large convenience store chains, with more than 500 outlets, sell candy cigarettes.³

Impact of surgeon general's report

Just before the surgeon general's 1964 report on smoking and health, the National Automatic Merchandising Association Special Committee on Cigarette Vending wrote to tobacco manufacturers. It had just discovered candy cigarettes in packs "so real looking

it's startling" and was concerned that this would add "another argument to bolster the claim that the tobacco companies are "trying to lure youngsters into the smoking habit."¹¹ Although dismissing such charges as ridiculous, the committee warned tobacco companies to withdraw permission for use of brand names and packaging for candy cigarettes and to take steps to prevent their unauthorised use.¹¹

Subsequently, the tobacco industry started to distance itself from candy cigarettes. The committee's point was "extremely well taken,"¹¹ and Lorillard withdrew permission from candy manufacturers to replicate its cigarette pack designs shortly after it received the committee's letter.¹¹ The industry, however, continued to permit trademark infringements, addressing such conduct, if at all, in ways unlikely to deter further encroachment.

In an article in *Advertising Age* in 1967, candy cigarettes were discussed with each major US cigarette maker.⁹ Some denied ever granting permission for candy cigarette packs to resemble those of real cigarettes, and others denied any current authorisation for candy manufacturers to use such designs. All, however, had come to understand the implications of being linked to candy cigarettes. Although Brown and Williamson had repeatedly granted confectioners permission to use its brand names or designs, it now denied ever having done so.^{4 12} As late as 1991, a South American candy company wrote to Philip Morris, reluctantly agreeing to the company's request that they discontinue using its brand names for chocolate cigarettes.¹³ The confectioner protested the unfairness of being told to stop producing a product that had served their mutual interests, saying "over all these many years, [candy cigarettes have] been sold to thousands of children and the brands 'daddy smoked' have been receiving propaganda completely free of charge."¹³

Trademark enforcement

Efforts by tobacco companies to stop confectioners selling candy cigarettes in packs resembling cigarette brands seem to have been minimal. This ineffectual trademark enforcement has typically been characterised by correspondence containing narrowly drawn complaints focused on a single cigarette brand rather than on all of the cigarette maker's brands, acceptance of assurances that the alleged infringement would cease, permission to continue selling the remaining inventory, vague threats of legal recourse (rarely carried out), no insistence on financial reparations, and a commitment to "amicable" resolution.^{7 13 14}

The only lawsuit we found dealing with candy cigarettes bearing tobacco brand trademarks¹⁵ was after publication of a letter in the *New England Journal of Medicine* in 1980.¹⁶ In response, R J Reynolds touted its efforts to end "the distribution of candy cigarettes with our brand names on them,"¹⁷ and a lawsuit against World Candies for trademark infringement followed.¹⁵ This lawsuit, however, seems to have been settled before it was filed, and no payment was required despite the alleged 30 years of infringement.¹⁸ When R J Reynolds concluded in 1995 that World Candies was infringing on its Mustang cigarette brand in violation of the 1983 court order, the tobacco company wrote the usual letter requesting cessation of copyright infringement and threatening "legal remedies," but did

not take legal action.⁶ International promotion of tobacco images to children, including several displays of manufacturers' brands on children's toys and school supplies, continued unabated throughout this period.²

In 1990, Philip Morris announced a "crackdown" on children's merchandise bearing its trademarks,¹⁹ expressly including candy products.²⁰ None the less, we found no lawsuits against the makers of candy cigarettes, either before or after the "crackdown." In contrast, Philip Morris's trademark enforcement against competing tobacco interests has been vigorous, as shown by its protection of the "Player's" cigarette name and trademark through repeated federal court proceedings seeking an injunction, profits, damages, and costs.²¹

Studies on candy cigarettes and smoking in children

In October 1990 one of us (JDK) presented an abstract, "Candy cigarettes: do they encourage children's smoking?" This study found that sixth graders who reported having used candy cigarettes were twice as likely to have also smoked tobacco cigarettes, regardless of parental smoking status.¹⁰ Additionally, 5-11 year olds in focus groups consistently identified candy cigarettes as "smoking toys," different from other confectionery or snack foods, and said that they, not their parents, would purchase and use them.¹⁰

In November 1990, World Candies contracted with Dr Howard Kassinove, a psychologist at Hofstra University, New York, to study the relation between candy cigarettes and smoking.²² The cost of the study was split between World Candies and New England Confectionery.²³

In January 1991 Dr Kassinove and his colleagues produced a two part study.²² The introduction stated that the study was funded by World Candies in response to a bill (House of Representatives No 5041) to ban candy cigarettes, which was being considered by the US Congress.²²

In the first part of the study, the authors found that adult smokers and non-smokers were similar in their recall of the use of candy cigarettes, and 5.3% of smokers considered candy cigarettes to have contributed to their later smoking.²² The researchers concluded that it seemed unlikely that candy cigarettes were a major contributor to starting smoking in adolescents.²² In the second part of the study, the authors showed candy cigarette packs to 31 young children and observed their reactions. They concluded that the primary determinants of children identifying confectionery as candy cigarettes were packaging features such as size, shape, and design. Labelling the product with "cigarette" had little effect: "Boxes which were similar in size to real cigarettes, were cellophane wrapped, and had a 'tax seal' on the end were most likely to be identified as 'candy cigarettes,' even when the word 'cigarette' did not appear on the box."²² There was "little doubt that some of the children were pretending to be smoking as they held the candy cigarettes in their hands, and some of them will likely begin to smoke when they are older. Given the well established health risks of smoking, it would be wise for manufacturers to minimize this identification."²²

Dr Kassinove and his colleagues recommended that the makers of candy cigarettes should "package their material in ways that are appealing to children

but are not suggestive of cigarettes."²² In the 1990s, both World Candies and New England Confectionery (Stark) changed their packaging, but not along the lines recommended. Instead, each company removed the word "cigarettes" from its packaging, otherwise retaining illustrations, colour schemes, simulated tax stamps, and other design features that made the tobacco connection recognisable to children.^{5, 6}

Suppression of data

After the initial Hofstra study was delivered to World Candies, the confectioner contacted Dr Kassinove, and he revised his report.²⁴ The existence of the original version was inadvertently disclosed by one of us (SSiC) in 1997.²⁴ In the revised version, instead of referring to candy cigarette "usage," reflecting the observation that candy cigarettes were used by children as a toy to mimic smoking, the word "eating" was substituted, suggesting that the cigarettes were just another food.²⁵ References to the health hazards of smoking and to the ban on candy cigarettes under consideration by Congress, descriptions of published studies critical of candy cigarettes, and a listing of countries that had banned candy tobacco products were all deleted.²⁵ The study also no longer made reference to the 5.3% of adults who considered candy cigarettes to have contributed to their smoking; instead, candy cigarettes were lumped with other factors into a "five percent or less" category.²⁵ Most notably, all references to the observations of children mimicking adult smokers and the researchers' concerns about design features suggestive of tobacco cigarettes were deleted.²⁵

These changes reduced the study from 76 to 31 pages, and the shorter version, dated February 1991, was used in various public testimonies to restrictions on candy cigarettes. In February 1991, the president of New England Confectionery sent World Candies half of the cost of the study, commenting, "I believe we can get some mileage from this report, and with it, hopefully, can convince some of our legislators on our Capitol Hill appearance."²⁶

Regulatory efforts

Candy cigarettes have reportedly been restricted or banned in many countries, including Canada, the United Kingdom, Finland, Norway, Australia, Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.^{22, 27, 28} In the United States, legislation banning candy cigarettes has been proposed unsuccessfully at the federal level in 1970 and in 1990, in 11 states, and in New York City. Only one US jurisdiction, North Dakota, has ever banned candy cigarettes. (That ban in 1953 was repealed in 1967.)

The Connecticut Consumer Protection Commissioner publicly criticised candy cigarettes in November 1993, as part of "a barrage of symbols" that glorify smoking.²⁹ In response, an attorney for World Candies stated they would "resist all efforts" to remove their "fun healthy foods" from the market just because they are "alleged to resemble tobacco products . . ."³⁰

Opposition to bans on candy cigarettes has come from companies making them and also from those with vested interests in tobacco.³¹ An effective approach to lobbying against bans on candy cigarettes was

described in 1996 by legislative counsel to both New England Confectionery and World Candies.^{6 32} When a proposed legislative ban first surfaces, lobbyists are hired to expand the language and to dismiss the proposed ban as ridiculous and unworthy of attention by public officials. "By the time it's over, the language is a sweeping ban," the bill "sinks," and candy cigarettes escape regulation.³² Ridicule played a role in the defeat of bans on candy cigarettes in New York, California, and Nova Scotia.^{31 33 34} In addition to ridicule, the candy companies have provided states with the sanitised version of the Hofstra study.

Study limitations

Our study is limited by the incomplete nature of the documents in the Tobacco Document Depository and by potential bias in our selection of search terms and databases. Our searches were also limited to candy cigarettes and English language sources. Although bubble gum and candy are also packaged to resemble snuff, chewing tobacco, pipes, and cigars, we do not know if similar evidence exists for such products or in other countries.

Conclusions

Candy cigarettes have been portrayed as a harmless part of growing up in many countries, and arguments over restrictions on them have often been reduced to questions of government intrusion on individual's rights. The modest evidence on the effects of these products on smoking and health, either published or suppressed, seldom enters the debate. Ultimately, these policy decisions should involve balancing concerns about desensitising children to an addictive carcinogen with the questionable benefit to society of having confectionery available that look like cigarettes.

The tobacco industry has clearly regarded candy cigarettes as more than just confectionery and has recognised the connection between candy cigarettes in young children's hands and real cigarettes in young smokers' hands. Accordingly, the tobacco industry enabled confectioners to market candy cigarettes as advertisements directed at "coming up cigaret smokers."³⁴

Our analysis of recently available documents makes it clear that tobacco companies cooperated with the manufacturers of candy cigarettes in designing candy products that would effectively promote smoking to children. Additionally, the two versions of the Hofstra study confirm the suppression of data that show the potentially harmful effects of candy cigarettes in promoting smoking to children.

Since the November 1998 settlement between the tobacco industry and 46 state attorney generals, tobacco companies are prohibited from directly or indirectly opposing state or local efforts to impose limitations "on non-tobacco products which are designed to look like tobacco products."³⁵ Our data, however, suggest a need for more vigorous public health strategies to eliminate the influence of these products on children.

The makers of candy cigarettes have been adroit at neutralising legislative challenges and have tenaciously marketed their products for generations. Nevertheless, the past tactics of the tobacco industry and the makers of candy cigarettes should not stave off efforts to eliminate this potentially harmful practice.

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- Davis RM. Current trends in cigarette advertising and marketing. *N Engl J Med* 1987;316:725-32.
- Davis RM. Criminal deception. *Alaska Med* 1996;38:43-8.
- Files of the Iowa Department of Justice (New England Confectionery, World Candies), Des Moines, IA, 1998.
- Minnesota Tobacco Document Depository, Brown and Williamson, Nos 682349446-7, 682068464, 682349428-9, 682349433-4, 682349443, 682349450, 682349453-4.
- Responses to demand for information by New England Confectionery Company, 7 Nov, 1997. Des Moines, IA: Iowa Department of Justice.
- Responses to demand for information by World Candies and World Candies International, 31 Mar, 1998. Des Moines, IA: Iowa Department of Justice.
- Minnesota Tobacco Document Depository, R J Reynolds Nos 515229798, 515864270, 521002269; Philip Morris Nos 2062101730-3, 2062101744, 2962101268-9.
- Davis R. Ghoulis promotions. *Tobacco Control* 1994;3:372-3.
- Minnesota Tobacco Document Depository, American Tobacco No ATX 040707316-7.
- Klein J, Forehand B, Oliveri J, Patterson C, Kupersmidt J, Strecher V. Candy cigarettes: do they encourage children's smoking? *Pediatrics* 1992;89:27-31.
- Minnesota Tobacco Document Depository, American Tobacco No ATX 040707309-10, Brown and Williamson No 682349413, Lorillard Nos 00487933, 00487943, 00487946.
- Minnesota Tobacco Document Depository, Brown and Williamson Nos 682349373, 682349462.
- Minnesota Tobacco Document Depository, Philip Morris No 2501300804-6.
- Minnesota Tobacco Document Depository, American No ATX 040707291; Brown and Williamson Nos 521002266, 521002269; Lorillard No 00487899; Philip Morris Nos 2062101268, 2062101606P-R, 2062101621-2, 2062101645-6, 2062101655, 2062101661, 2062101717, 2062101733-4, 2062101743-4; R J Reynolds Nos 500026219, 500026221, 500625068, 515229798, 515864270-1, 515864290-1, 515864295-6, 515864302.
- R J Reynolds Tobacco v World Candies, U.S. Dist. Ct. E. D. New York, No 83 Civ 4586, October 18:1983.
- Blum A. Candy cigarettes. *N Engl J Med* 1980;302:972.
- Fishel D. Company opposes candy cigarettes. *N Engl J Med* 1980;303:589.
- Minnesota Tobacco Document Depository, Brown and Williamson No 682129516-8, R J Reynolds No 515864290-1.
- Lipman J. Marlboro just says no on logo. *Washington Post* 1990 Jul 9.
- Minnesota Tobacco Document Depository, Philip Morris No 2501300748-50.
- Philip Morris v Imperial Tobacco, 251 F.Supp. 362 (E.D.Va. 1965); 282 F.Supp. 931 (E.D. Va. 1967); 401 F.2d 179 (4th Cir. 1968), cert. denied, 393 U.S. 1094, 89 S.Ct. 875, 21 L.Ed.2d 784 (1969).
- Kassinove H, Schare M, Eckhardt C, Endes R. Children, candy cigarettes, and adult cigarette smoking: an empirical analysis of the relationship between childhood candy cigarette consumption and adult smoking (unpublished, Jan 1991). Des Moines, IA. Iowa Department of Justice.
- Letter from World Candies to New England Confectionery, 25 Feb, 1991. Des Moines, IA: Iowa Department of Justice.
- Memoranda of telephone interviews with Dr Howard Kassinove, Sep 11 and Oct 22, 1997. Des Moines, IA: Iowa Department of Justice.
- Kassinove H, Schare M, Eckhardt C, Endes R. Children, candy cigarettes, and adult cigarette smoking: an empirical analysis of the relationship between childhood candy cigarette consumption and adult smoking (unpublished, Feb 1991), and letter from Mary Martha McNamara, 25 Jul, 1997. Des Moines, IA: Iowa Department of Justice.
- Letter from New England Confectionery to World Candies, 28 Jan, 1991. Des Moines, IA: Iowa Department of Justice.
- Boland M. Lolly cigarettes face ban. *Evening Post* (Wellington, New Zealand) 1999 Jun 11.
- Tobacco Act, Ch.13, Sect. 27, Statutes of Canada, 1997.
- Officials decry tobacco advertising. *Hartford Courant* 1993 Nov 19.
- Letters from Commissioner of Consumer Protection to World Candies, 17 Nov, 1993, and from Mary Martha McNamara to Commissioner of Consumer Protection, 20 Jan, 1994. Hartford, CT. Office of the Connecticut Commissioner of Consumer Protection.
- Minnesota Tobacco Document Depository, Philip Morris Nos 1005098971, 2025864138.
- Thomas P. Candy cigarette makers puff along amid attacks by lawmakers, teachers. *Wall Street Journal* 1996 Aug 23.
- Walters D. Nanny government scolds candy cigarette smokers. *Sacramento Bee* 1992 Jan 24.
- Trigueiro D. Stop looking under rocks for trouble. *Calgary Herald* 1994 Feb 25.
- Master Settlement Agreement, part III. www.naag.org 6/3/00.

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