

Backgrounder on the Canadian Tobacco Market



Spring 2014

Smoking and Health Action Foundation/

Non-Smokers' Rights Association

Main Tobacco Companies in Canada



Imperial Tobacco Canada Limited

- Imperial Tobacco Canada Limited is the largest tobacco company in Canada, with a market share of 50.8% in 2013. The company has been fully owned by British American Tobacco (BAT) since 2000.
- BAT's profits increased 3% to £5.5 billion in 2013 (\$9.95 billion CAD).
- Imperial's head office is located in Montreal, Quebec. Its products are manufactured in a BAT plant located in Monterrey, Mexico.
- Marie Polet has been the President and Chief Executive Officer of the company since 2011.
- The company's most popular brands are du Maurier, Player's, Peter Jackson, Matinée and Medallion.
- The company's website is www.imperialtobaccocanada.com.



Rothmans, Benson & Hedges

- Rothmans, Benson & Hedges is the second largest tobacco manufacturer in Canada with a market share of 37.2% in 2013. The company has been fully owned by Philip Morris International (PMI) since 2008.
- PMI's profits decreased 2.5% to \$8.6 billion US in 2013 (\$9.52 billion CAD).
- RBH's head office is located in Toronto. Its products are manufactured in Quebec City and Brampton, Ontario.
- John R. Barnett has been the President and Chief Executive Officer of the company since 1998.
- The company's most popular brands are Canadian Classics, Next, Number 7, Accord and Québec Classique.
- The company's website is www.pmi.com.

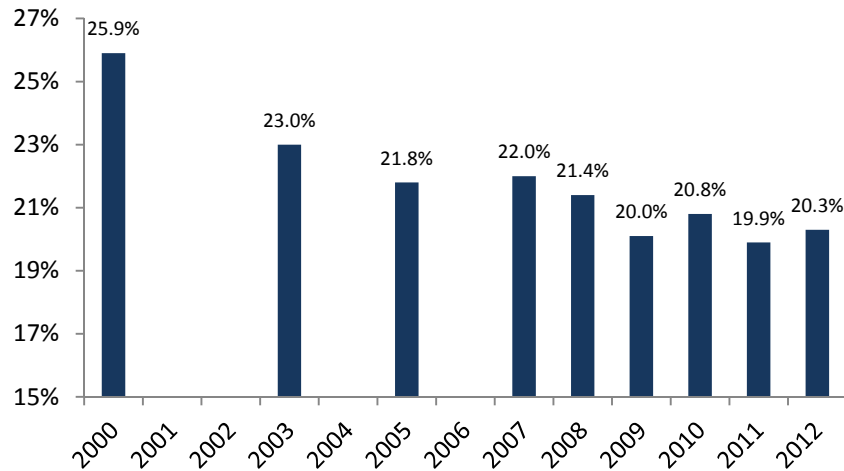


JTI-Macdonald

- JTI-Macdonald is the third largest tobacco manufacturer in Canada with a market share of 12% in 2013. The company has been fully owned by Japan Tobacco International (JTI) since 1999.
- JTI's profits reached ¥648.3 billion for 2013 (\$6.99 billion CAD).
- JTI-Macdonald's head office is located in Mississauga, Ontario. Its products are manufactured in a plant located in Montreal, Quebec.
- Michel A. Poirier has been the President and Chief Executive Officer of the company since 2000.
- The company's most popular brands are Export A and Macdonald.
- The company's website is www.jti.com.

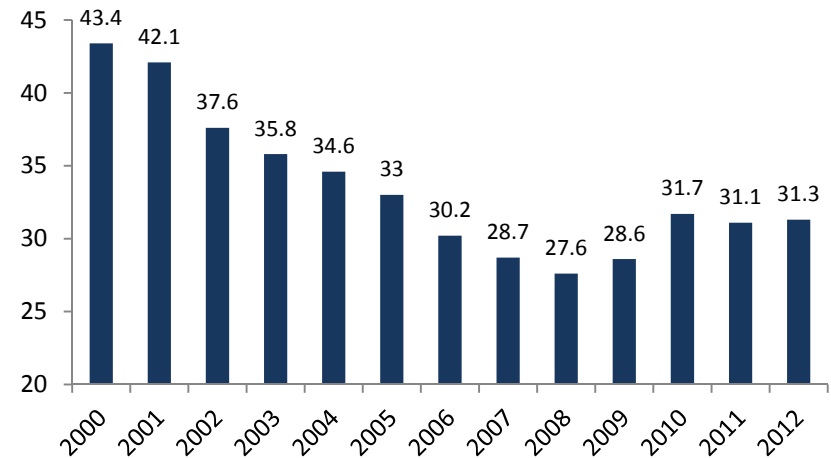
Key Canadian Tobacco Market Indicators

Prévalence in Canada, age 12+



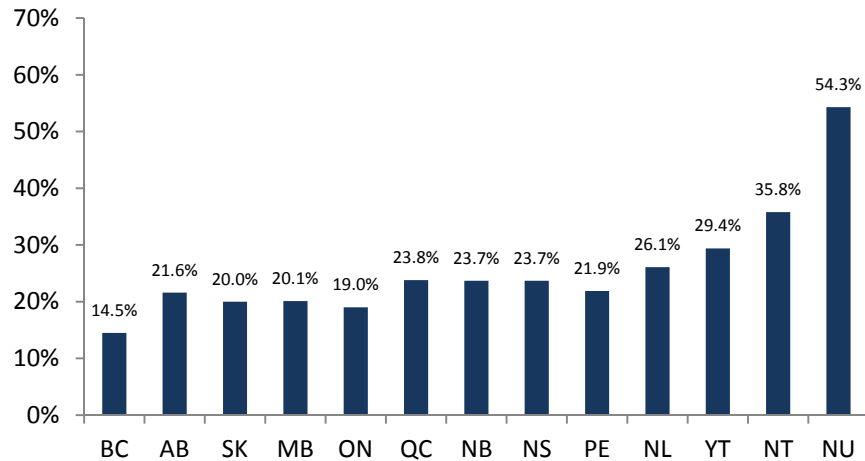
Source: Canadian Community Health Survey

Cigarette Sales in Canada (in billions)



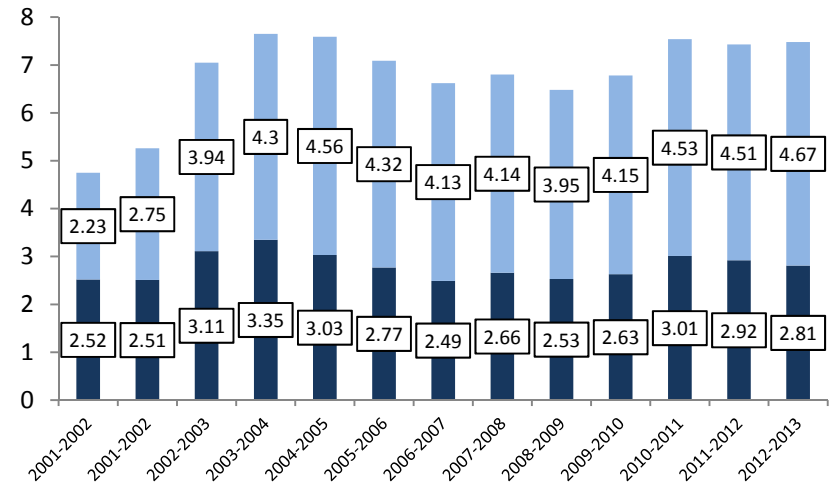
Source: Health Canada

Prevalence in Provinces and Territories, 2012 (age 12+)



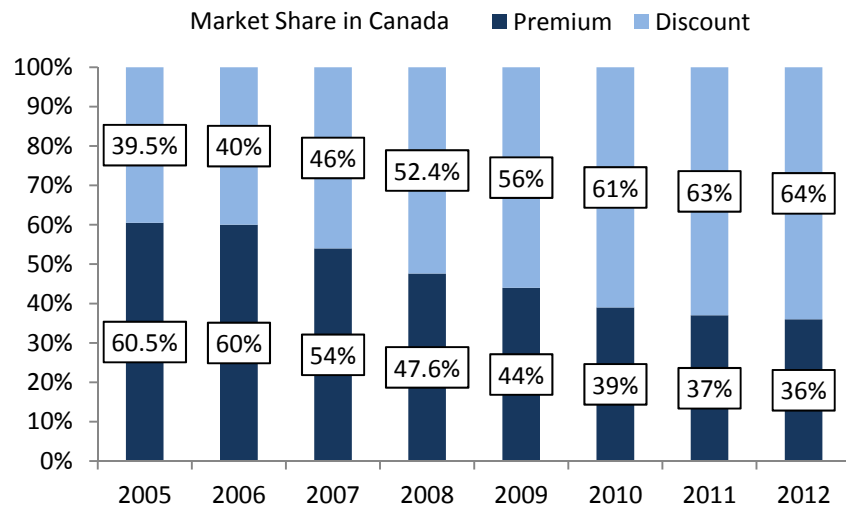
Source: Canadian Community Health Survey

Tax Revenues in Billions (No GST and PST or HST) ■ Federal ■ Provincial

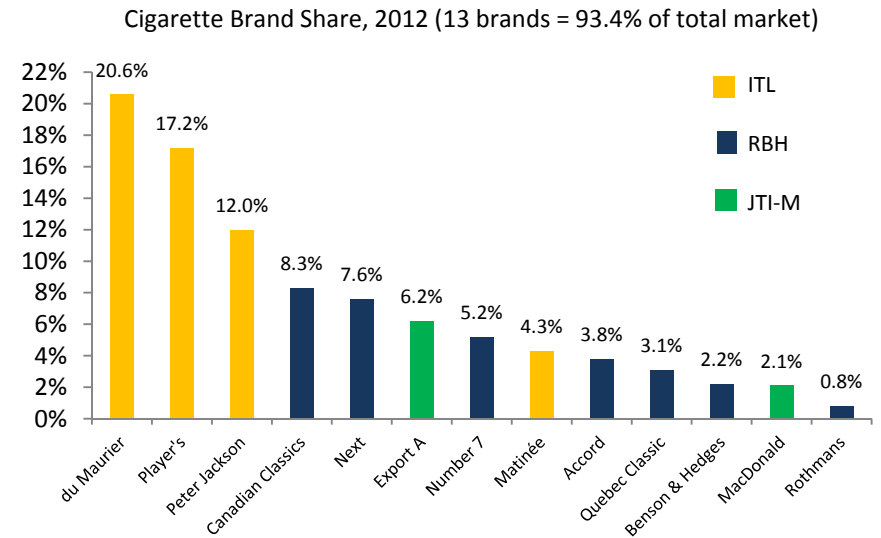


Source: Physicians for a Smoke-Free Canada

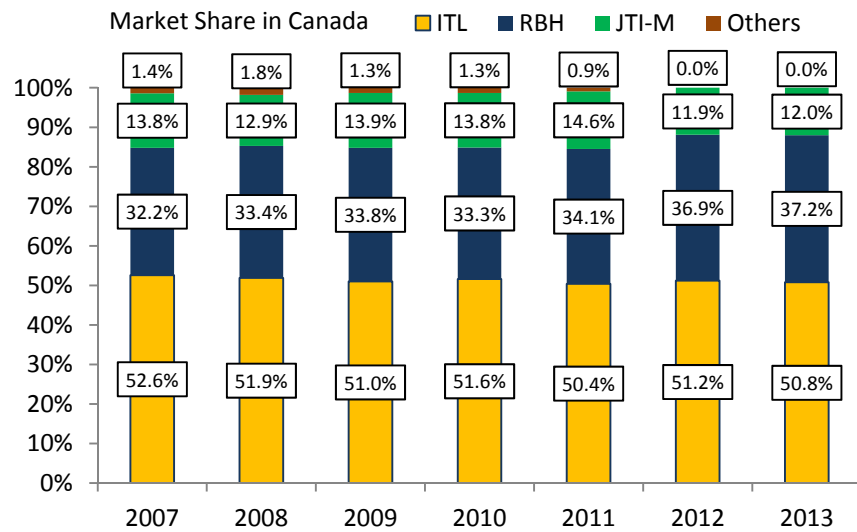
Key Canadian Tobacco Market Indicators



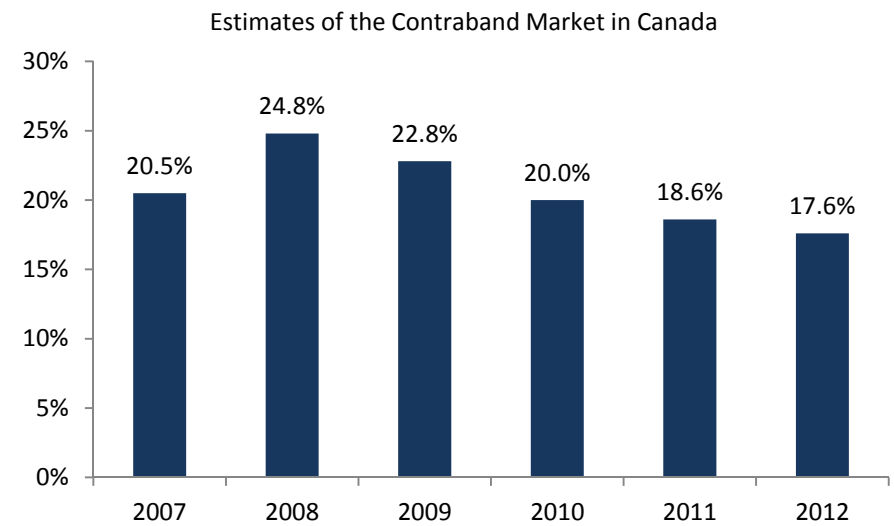
Source: Citi Group



Source: Euromonitor International



Source: Citi Group and company financial reports



Source: Euromonitor International

Key Canadian Tobacco Market Indicators

A Snapshot of Cigarette Pricing, Ontario and Quebec, March 2014

Categories	Price of a pack of 20 regular cigarettes, selected stores, Ottawa and Toronto	Price of a pack of 20 regular cigarettes, selected stores, Montreal	Imperial Tobacco	Rothmans, Benson & Hedges	JTI-Macdonald
Premium	\$8.96 to \$13.75	\$9.30 to \$11.95	duMaurier Player's Vogue	Belmont Benson & Hedges	Export A Camel
Mid	\$7.25 to \$9.50	\$7.25 to \$8.20	John Player Special Peter Jackson	Number 7 Canadian Classics	Macdonald Special
Budget	\$5.42 to \$8.50	\$6.30 to \$6.80	Pall Mall Viceroy	Next Québec Classique Accord	
Average price difference between budget & premium	\$4.28	\$3.87			

Source: Citi Group & Retail stores

Note: Prices were collected from 16 randomly selected retail stores in Montreal, Ottawa and Toronto. The average price difference was calculated first by adding the budget prices and the premium prices separately and dividing each total by the number of visited retail outlets in each province and second by subtracting the premium average by the budget average.

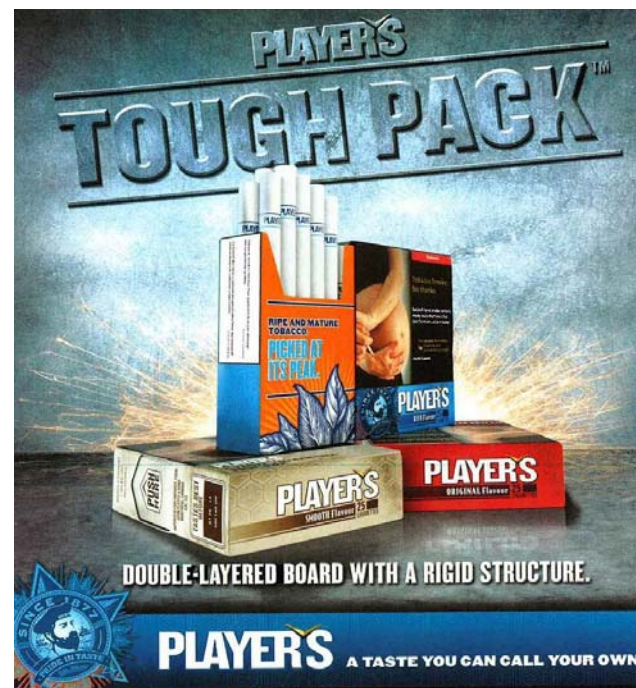
Major Issues for the Tobacco Industry

Advertising and Packaging

The federal *Tobacco Act* severely restricts the tobacco industry's advertising and promotional options. Only information and brand-preference ads are permitted and such ads are only allowed on signs in establishments where minors are not permitted or in publications sent by mail to a named adult.¹ In Quebec, the provisions of both the federal and provincial tobacco acts amounts to a complete advertising ban.² (However, neither act prohibits tobacco manufacturers from advertising in trade magazines sent, for example, to retailers (see ad at right).)

Adding the fact that tobacco displays are banned in retail stores and that new graphic health warnings cover 75% of both main faces of the cigarette package, there is no doubt that the residual space on the package remains the most vital tool for the tobacco industry to communicate with consumers. It is important to reiterate that, in Canada, there is very little to distinguish among cigarette brands because manufacturers all use the same kind of tobacco. Consumers are led to believe that a product has different characteristics because of the branding, which is now achieved primarily through its name and packaging.³ Over 30 years ago, tobacco companies recognized that the package would become their prime marketing tool: "Under conditions of [a] total [advertising] ban, pack designs...have enormous importance.... Therefore, the most effective symbols, designs, color schemes, graphics and other brand identifiers should be carefully researched.... An objective should be to enable packs, by themselves, to convey the total product message."⁴

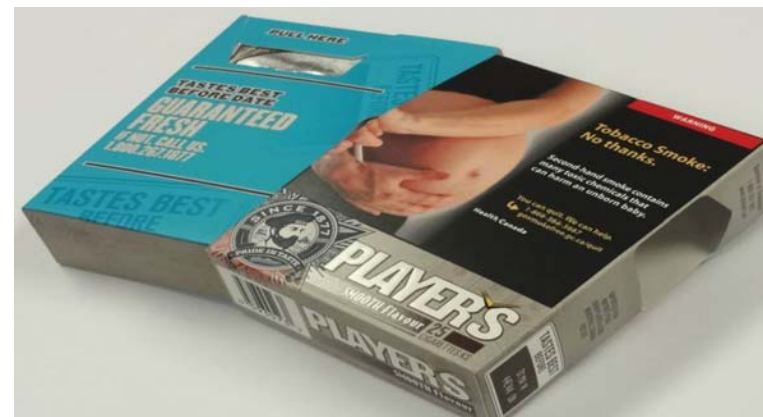
With such a restrictive regulatory environment, the tobacco industry tries to take full advantage of any possible remaining channels to promote its products, sometimes by exploiting legal loopholes and gray areas. The tobacco industry goes to great lengths to design its tobacco packages to make sure they minimize the impact of health warnings and maximize the visibility of its trademarks (see packages on top of next page). The lipstick size Benson & Hedges packs on the left are obviously designed to appeal to women and at



Source : *C-Store Life Magazine 2013*



Benson & Hedges Super Slims



Player's removable cover

the same time reduce substantially the visibility of the health warnings. The Player's pack on the right makes it possible to throw away the outer portion with the warning and have a stand-alone package.

Except in Quebec where such ads are prohibited, the tobacco industry has posted tobacco ads in venues such as restaurants, which are obviously not considered by the federal *Tobacco Act* as "a place where young persons are not permitted by law" (see picture at right taken in a Toronto restaurant in September, 2013).

Despite a tobacco display ban in retail stores in Canada, the retail sector still remains critical to the tobacco industry's marketing strategies. Indeed, according to the vice president of corporate affairs for Rothmans, Benson & Hedges:

"You can expect our company to not be paying for retail display space. But that is not meant to imply that we are taking trade spending off the table, not at all. In fact, we will migrate that trade spend into pay-for-performance kind of programs. So we will be focused on specific brands, on information that you can provide to your consumers, those kinds of things... don't think that money is being removed from the category; it is not."⁵

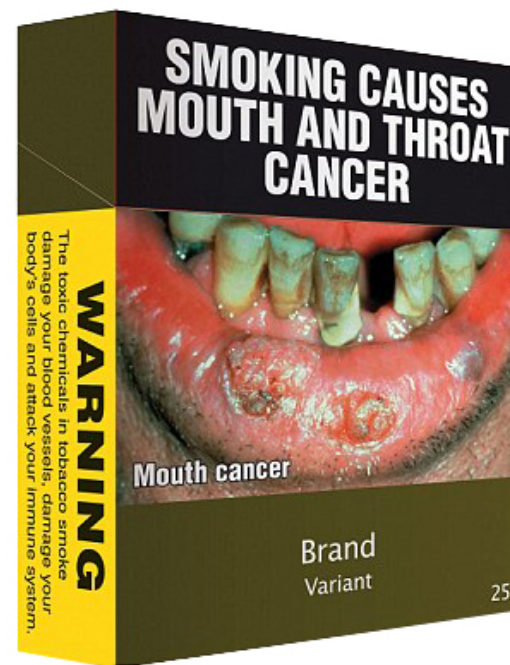


Ads illustrating sophisticated packages with a background of different graphic designs, colors and catchy expressions are a far cry from what we should expect in terms of the information and brand-preference advertising allowed by the federal *Tobacco Act*. It is clear that the tobacco industry is attempting to maintain as much as possible the lifestyle imagery associated with its brands of cigarettes, thus circumventing the intent of the *Act*. The best possible solution to eliminate the industry's use of the package to promote its products is to implement plain and standardized tobacco packages, as Australia has done (see Australian plain package at right).

The tobacco industry obviously abhors plain and standardized tobacco packages. It has spent a great deal of time and resources on its public relations efforts and legal action to oppose plain packaging in Australia. Although the High Court of Australia in August 2012 rejected the tobacco industry's argument that the *Tobacco Plain Packaging Act 2011* amounted to an acquisition of property on less than just terms, tobacco companies are opposing the measure on two other fronts.⁶

Philip Morris Asia is challenging the plain packaging legislation under the 1993 bilateral investment agreement between Australia and Hong Kong.⁷ In addition, five countries (Cuba, Dominican Republic, Honduras, Indonesia and Ukraine) have submitted complaints to the World Trade Organization claiming that the 2011 legislation breaches "the WTO's General Agreement on Tariffs and Trade (GATT), the Agreement on Technical Barriers to Trade (TBT) and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), in that the provisions are discriminatory, more trade restrictive than necessary, and unjustifiably infringe upon trademark rights."⁸ In late March, the Australian government took the unusual move of agreeing to the first request by Indonesia to establish a WTO dispute panel against it. This move is regarded as an attempt by Australia to bring some or all of the five separate cases against its tobacco plain packaging law together to expedite resolution of the dispute(s).

Aggressive challenges to tobacco control measures by the tobacco industry are usually considered by the health community as strong indicators that policies are an effective way to reduce tobacco consumption. In February 2014, New Zealand decided to follow in Australia's footsteps by introducing its own bill to implement plain packaging.⁹ In March 2014, the UK Parliament also took action on this issue by adopting legislation that provides the authority to implement plain and standardized packages.¹⁰ A month later, the



independent public health review on standardized packaging of tobacco by Sir Cyril Chantler, the non-executive Chairman of the Quality and Clinical Risk Committee of the National Health Service in England, was released. Sir Chantler concluded: “I am satisfied that the body of evidence shows that standardised packaging, in conjunction with the current tobacco control regime, is very likely to lead to a modest but important reduction over time on the uptake and prevalence of smoking and thus have a positive impact on public health.”¹¹ The report prompted the Parliamentary Under-Secretary of State for Health, Jane Ellison, to announce the introduction of regulations to provide for standardized packaging.

The tobacco industry is obviously very vocal in its opposition to plain packaging and claims that smoking rates have not changed in Australia since the policy was implemented. However, it is still too early to see the impact of this measure. The industry is also alleging, not surprisingly, that such a measure will lead to a rise in the illicit market.¹²

Major Issues for the Tobacco Industry

Contraband

A quick glance at the federal and Quebec lobbying registries provides valuable information about the tobacco industry's key advocacy priorities. Not surprisingly, the industry's main focus is once again tobacco taxation and contraband tobacco. Tobacco manufacturers have understood for a long time that tobacco taxes seriously undermine the viability of their market and the best way for them to oppose an aggressive tobacco taxation policy is to continuously focus attention on the contraband market. The intent is to lead decision makers to believe that manufacturers have a genuine concern for public health in wanting to see the availability of cheap illegal tobacco products reduced or eliminated; in fact, their main concern is to increase their own profits by bringing customers back to the legal market. The contraband market is also used as leverage to discourage governments from taking any further action in terms of increasing tobacco taxation or regulating legal tobacco products.



Source : *Courier Frontenac*

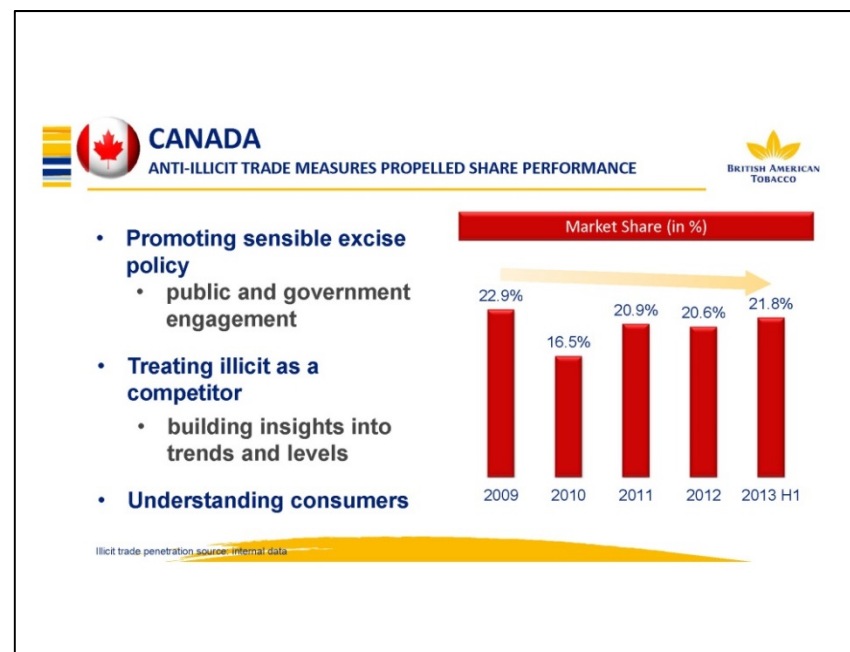
Although Imperial Tobacco Canada does issue press releases on a regular basis on contraband and taxation issues, the brunt of the tobacco industry's public relation efforts comes from its usual front groups, the Canadian Convenience Stores Association (www.theccsa.ca) and the National Coalition Against Contraband Tobacco (stopcontrabandtobacco.ca). Both groups are comprised of members of the business community. During testimony for Bill C-10: *An Act to amend the Criminal Code (trafficking in contraband tobacco)* in December 2013, the Standing Committee on Justice and Human Rights pressured the National Coalition Against Contraband Tobacco's spokesperson to disclose its main funder but no such information was ever provided.¹³

As part of its latest efforts to make sure that contraband tobacco remains a top priority for governments, both the Ontario and Quebec divisions of the CCSA launched a campaign in retail stores using iPads to attract customers to sign a petition calling for more action on contraband and no tobacco tax increases (see picture at top right).

Not surprisingly, this campaign was also used in Quebec to oppose possible government plans for further tobacco control measures. Indeed, the CCSA specifically targeted members of the Quebec Commission on Health and Social Services (Parliamentary health committee) in their ridings because they were in the process of proposing recommendations for a review of the *Quebec Tobacco Act*.^{14, 15}

Both the CCSA and the NCACT are continuing to make misleading claims about the current contraband market. In April 2014, the CCSA said on its website that “the threat of contraband tobacco continues to grow across the country.” The NCACT alleged that “These contraband cigarettes, which are being smuggled throughout Canada in record numbers, now represent one out of every three cigarettes purchased.” These statements don’t reflect what tobacco companies are reporting internally about the trend and the size of the contraband market. For example, a recent presentation by BAT shows that the contraband market is mostly stable and that it is much lower than the 33% stated by the NCACT (see graphic above).

Although the contraband market is smaller than the tobacco industry and its allies claim publicly, the health community remains supportive of strong measures to control the illicit market. However, since 80% of the Canadian tobacco market is legal, governments should not be distracted by the specter of contraband from their obligations to further protect public health from the devastating harm caused by the largest segment of the market.



Source: BAT 2013 presentation to investors

Major Issues for the Tobacco Industry

Electronic cigarettes

There has never been an alternative nicotine delivery device which has attracted more attention than electronic cigarettes. News stories are coming out almost daily on the potential benefits or risks of these products for public health. On the one hand, research shows that the vapour generated by these products contains not only much fewer toxic chemicals than regular combustible cigarettes but also much lower levels of these chemicals, which makes them a safer option for smokers.¹⁶ On the other hand, many regard these products as a threat to public health because of the unknown health risks from long-term inhalation of the chemicals, in particular propylene glycol, because of the possibility that they will promote dual use rather than cessation, and because of the risk of renormalizing nicotine addiction among youth.¹⁷



Source: Therapeutic Advances in Drug Therapy

An electronic cigarette essentially consists of a cartridge or tank containing flavouring, water and most often nicotine in a base solution of propylene glycol (PG) and/or vegetable glycol; an atomizer containing a heating element which turns the liquid nicotine into vapour; and a battery to power the atomizer.¹⁸ Since their first appearance on the market, technological innovations have produced newer generations of electronic cigarettes with larger tanks and batteries that not only last longer before needing to be recharged but are adjustable as well (see the picture at top right). These newer models produce more and hotter vapour and deliver nicotine more effectively and consistently than the first generation electronic cigarettes.¹⁹

Health Canada has not changed its position on electronic cigarettes since publishing its advisory in 2009 which essentially states that electronic cigarettes containing any amount of nicotine or have a health claim are subject to the *Food and Drugs Act* and require approval from Health Canada before they can be sold in Canada. To date, no such product has been approved. Health Canada has sent cease-and-desist letters to electronic cigarette sellers and some products imported into Canada have been seized and turned back. However, no charges have been laid.²⁰

Nonetheless, shops selling electronic cigarettes both with and without nicotine are proliferating across the country, reflecting an increase in demand for these products. In an attempt to learn more about this emerging market, Health Canada recently awarded AC Nielsen a contract “to provide data on retail sales of e-cigarettes in Canada over the past two years.”²¹

Sales of electronic cigarettes are thriving as well in other countries such as France, the United States and the United Kingdom. However, contrary to publicly expressed concerns, available data suggest that the increase in sales of electronic cigarettes in these countries has not resulted in an upward trend in smoking prevalence. Rather, the advent of electronic cigarettes on the market may be a contributing factor to a further decline in tobacco consumption.^{22, 23, 24}

The success or failure of electronic cigarettes will depend in part on the regulatory approach taken by health authorities. In the US, the Food and Drug Administration (FDA) finally released draft regulations for electronic cigarettes. These proposals would require manufacturers of electronic cigarettes to register with the FDA and receive pre-market approval; they will also have to disclose product ingredients and ensure compliance with good manufacturing practices. Sales to minors and free product give-aways will no longer be permitted. Electronic cigarettes will require as well a warning label saying that they contain nicotine, which is addictive. The proposed regulations do not, however, include a ban on flavors or restrictions on promotion and advertising.²⁵

In March 2014, the EU Parliament adopted more far reaching regulations for electronic cigarettes. Member states can either regulate them as a medicine, if companies choose to make a claim that electronic cigarettes help smokers quit smoking or as a consumer product (if companies do not make any health claims). As a consumer product, electronic cigarettes will be subject to the same advertising restrictions as regular cigarettes and will have to carry health warnings about the addictive properties of nicotine. Limits will be imposed on the size of the e-liquid bottles (10 ml) and the concentration of nicotine in the e-liquid (20mg/ml).²⁶

The proposed regulations in the US and those approved in the EU will no doubt influence other jurisdictions such as Canada in their approach to regulate the electronic cigarette market.

Major Issues for the Tobacco Industry

Litigation

In its latest annual report, Philip Morris International, the parent company of Rothmans, Benson & Hedges, continues to express concerns over ongoing litigation in several countries:

“Damages claimed in some tobacco related litigation are significant and, in certain cases in Brazil, **Canada**, Israel and Nigeria, range into the billions of U.S. dollars. We anticipate that new cases will continue to be filed. The FCTC encourages litigation against tobacco product manufacturers. It is possible that our consolidated results of operations, cash flows or financial position could be materially affected in a particular fiscal quarter or fiscal year by an unfavorable outcome or settlement of certain pending litigation. [emphasis added].”²⁷

The tobacco industry is facing a multitude of lawsuits in Canada from governments and victims. All provinces have passed health care costs recovery legislation. Only one province, Nova Scotia, has still not filed its statement of claim against the main Canadian tobacco manufacturers and their parent companies. The manufacturers have gone to great lengths not only to invalidate the constitutionality of the enabling legislation, but also to exclude their parent companies from the legal proceedings. None of these challenges has been successful to date, although they have been effective in delaying the progress of the lawsuits.

There are several existing lawsuits that have been filed in Canada by victims against the tobacco industry but only one has reached the trial phase. The case combines two class action lawsuits representing ill and addicted Quebec victims against the three main Canadian tobacco manufacturers: *Cécilia Létourneau v. Imperial Tobacco Ltd., Rothmans, Benson & Hedges Inc. and JTI-Macdonald Corp.* and *Conseil québécois sur le tabac et la santé and Jean-Yves Blais v. Imperial Tobacco Ltd., Rothmans, Benson & Hedges Inc. and JTI-Macdonald Corp.*^{28, 29} The victims are seeking over \$20 billion in damages from the companies.



Montreal Court House

The trial has been in the defence phase for the past year. As part of its defence, the tobacco industry called on three historians to argue that victims were well aware of the risks of smoking because of all the media coverage of the health effects of smoking over the past decades. Not surprisingly, they were not tasked with including all of the media coverage about the industry's decades-long conspiracy aimed at misleading the public about the health effects of smoking. The industry also called to the stand two epidemiologists and a statistician to argue that the use of epidemiological studies is inappropriate to determine if tobacco was indeed the main cause of disease in individual victims. During cross-examination, their credibility was seriously undermined when the court learned that they themselves used epidemiological data in their own studies to show the relative risks of tobacco use compared to other risks factors.

The case can be followed on a daily basis through the excellent blog "Eye on the Trials," which was set up by the Quebec Public Health Association and is authored by Cynthia Callard and Pierre Croteau.³⁰

Other Tobacco Companies

Grand River Enterprises

This backgrounder focuses mostly on the three main tobacco manufacturers, since they represent virtually all of the Canadian tobacco market (see bar chart on page 3). Grand River Enterprises, which is located on the Six Nations of the Grand River Reserve in Ontario, is also a significant player in Canada but most of its production is shipped to reserves and exported to the U.S.

The company is suspected of not complying with the Ontario quota system by shipping larger volumes of cigarettes to reserves than permitted. As well, Grand River Enterprises has recently made the news south of the border because the New York State Attorney General has filed a lawsuit against the company for “illegally selling its products to Native Wholesale Supply instead of a New York State licensed stamping agent who would prepay the New York State cigarette excise tax and affix the state tax stamp, as required under the law.”³¹

Little Cigar Companies

There are other smaller tobacco companies in Canada, such as Casa Cubana (www.casacubana.ca), Scandinavian Tobacco Group Canada (<http://www.st-group.com/index.php/scandinavian-tobacco-group-canada>) and Distribution GVA Inc. These companies are distributors of pipe tobacco, cigars or cigarillos. This category of products continues to represent a concern for the health community because many of these products are sold with a wide range of flavors that make them very attractive for youth. Indeed, 25% of youth between the ages of 15 and 19 had smoked a cigarillo in 2012. Among cigarillo users in that age group, over 80% of them smoked flavored products.³²

A first attempt to address this issue was made by the federal government in 2009 with the adoption of the *Cracking Down on Tobacco Marketing Aimed at Youth Act* which bans flavors, except for menthol, in cigarette and cigarillos. Unfortunately, the companies have circumvented the *Act* by making changes to their products so they can continue to sell them with flavors. However, provincial governments have started to step in to take action against flavored tobacco products. Alberta has already passed legislation while bills to address this problem have been introduced in the British Columbia, Manitoba and Ontario legislatures.

Smokeless Tobacco Companies

The National Smokeless Tobacco Company Ltd. is probably the largest distributor of smokeless tobacco products in Canada. Located in Montreal, the company is the distributor of the popular brands Skoal and Copenhagen. In Canada, only 0.5% of the adult population used these products in 2012. Among youth, 5.5% of 15-19 year-olds tried these products in 2012, and use is much higher among particular demographics, such as teens who play certain sports and who live in northern communities.³³ These products continue to be sold with flavours and are not required to display a graphic health warning. There is no indication from the federal government that it intends to act on these two issues.

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