

Eye on the tobacco industry

An update on current Canadian tobacco industry activity

April–June 2008



New cigarette ads in publications popular with young, urban people

In the fall of 2007, after the Supreme Court of Canada upheld the *Tobacco Act*, tobacco companies began advertising again. Recently the companies have been increasing their advertising, mostly in free entertainment weekly newspapers popular with young people in urban areas.

This spring, numerous full page, colour ads from Imperial Tobacco Canada and JTI-Macdonald were published in the *Ottawa X Press* and the *Gatineau-Ottawa Voir*. Similar publications in other large cities in Canada have also carried the ads. In some of the newspapers as many as five pages, or one quarter, of a 20 page publication contain tobacco ads.

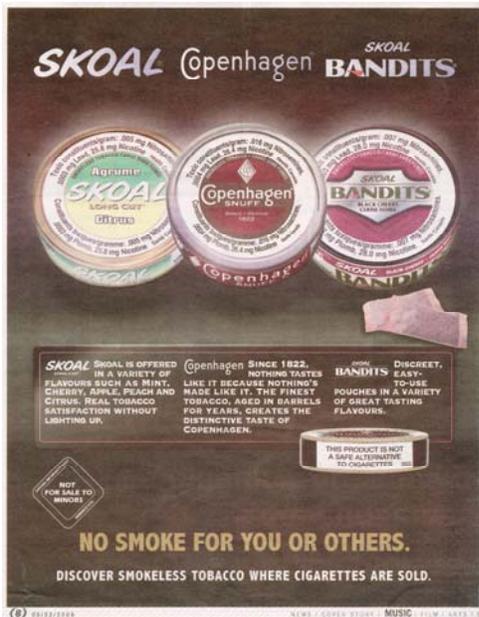


The National Smokeless Tobacco Company has also been running colour ads of its products. The only big Canadian company apparently not publishing ads is Rothmans, Benson & Hedges. It is not immediately clear why.

Tobacco ads have been used for decades to lure new smokers. However, the tobacco industry in Canada had voluntarily stopped advertising in an attempt to buttress the legitimacy of its argument before the Supreme Court that the *Tobacco Act* created a de facto ban on all tobacco advertising and violated its constitutional right to freedom of expression under the Charter.

The ads have caused some to question the effectiveness of Canada's *Tobacco Act*. Indeed, since 2006 the Canadian Coalition for Action on Tobacco has urged the government to

implement a comprehensive ban on tobacco advertising and promotion.¹ The *Act* significantly limits the advertising avenues available to the tobacco industry. One of the permitted forms of advertising is in publications with an 85% adult readership, but it is not at all clear how Health Canada determines the percentage of adult readership of the publications in which tobacco ads appear, and how that requirement is enforced.



Although Health Canada issued a consultation paper on proposed regulations requiring warnings on permitted ads in 2004, there are no federal regulations which require warnings.² It is interesting to note that in the absence of regulations, tobacco companies have voluntarily put warnings on their ads, likely in an attempt to forestall more stringent requirements and perhaps due to legal concerns. In absence of government regulations on warnings on permitted ads, no consistency exists in the size or text of the warnings. JTI-Macdonald's *XS* ad is small, while the *Player's* ad by Imperial Tobacco has a larger text-based warning. The smallest warning on the National Smokeless Tobacco Company ad is simply a photo of the warning they are required to print on the side of their product packages.

Imperial Tobacco Canada says it is committed to youth smoking prevention

Public health groups were discouraged to learn recently that thousands of young Canadians are smoking candy-flavoured tobacco products.³ This fact prompted Member of Parliament Judy Wasylycia-Leis (NDP-Winnipeg North) to table a Private Member's Bill in the House of Commons that would crack down on the marketing of novelty tobacco products designed to attract young smokers.

Imperial Tobacco Canada is concerned about the legislation because it would also ban flavouring agents other than sugar, tobacco, tobacco extracts or reconstituted tobacco in all tobacco products. Imperial's menthol cigarettes would be banned if the legislation is enacted.

On April 10, the company put out a press release reaffirming that "it does not target minors through direct or indirect marketing."⁴ Imperial stated that it does not produce cigarillos or flavoured cigarettes, except mentholated products.

Menthol is added to tobacco products to make the smoke seem 'milder' or 'cooler', which makes it easier for new smokers to start smoking without experiencing unpleasant coughing and throat irritation.

Imperial says on its website that menthol "is applied to the inner foil wrapping of mentholated cigarette packages, and it is the menthol vapour that permeates the tobacco in a matter of hours."⁵

Not many Canadians currently smoke menthol cigarettes. For example, Imperial's website indicates that mentholated cigarettes make up only two per cent of its production and sales.⁶

Casa Cubana fights legislation to ban candy flavoured tobacco

Casa Cubana, which imports and distributes candy-flavoured cigarillos in Canada for Prime Time International, is fighting proposed legislation tabled in two provinces and at the federal level which would, among other things, ban the sale of tobacco products that have candy flavours.

Canada has seen a proliferation of novelty tobacco products in recent years, and companies selling cigarillos—with flavours such as cherry, peach and raspberry—have induced hundreds of thousands of teenagers to try these deadly and addictive products.

At the end of May, Health Canada released data which showed that **sales of cigarillos grew “by over 300% per year between 2001 and 2006, from fewer than 50,000 units to over 80 million.”**⁷

In its fight to stop these flavouring bans, Casa Cubana is employing Luc Martial, a long-time tobacco industry consultant, as its spokesperson. In various press releases, Martial has said that the proposed new laws are out of touch, unnecessary and will ultimately be ineffective in driving down youth smoking rates.^{8 9 10} Martial is also the head of a tobacco industry front group called the Tobacco Control Accountability Initiative (TCAI), founded in 2007. The organization’s website has information on it which seems to argue against governments making tobacco control a public health priority.

Despite the efforts of the vested interests, responsible governments and politicians are contemplating banning candy flavourings in tobacco products, flavouring known to entice young people into smoking. Public health groups across the country are speaking out in support of these responsible political efforts.

Quebec moves to restrict tobacco ads and signals action on cigarillos

Quebec announced draft tobacco control regulations related to health warnings and cigarillos on March 5, which were scheduled to come into force on May 31. However, the government received so many suggestions for changes to the draft regulations that the coming into force date has been delayed.



Quebec is the first jurisdiction in Canada to require health warning messages on permitted tobacco industry advertising. The regulation stipulates that the government health warnings have to be displayed in the top left corner of any product advertisement, making it more difficult for the companies to favourably position their deadly products.

Under the federal *Tobacco Act*, tobacco companies are permitted to advertise in newspapers and magazines that have 85% adult readership. Quebec’s new regulations may make the companies think twice about using print ads because they force the manufacturers to prominently display messages from the Health and Social Services Minister such as “Smoking Causes 85% Of All Lung Cancers,”

“Smoking Kills 10,000 Quebecers Every Year,” and “Smoking KILLS.”

The regulations also forbid ads being published on the front or back page of a publication, so magazines or newspapers cannot be used as in-store ads while displayed on shelves.

Banning the sale of cheap individual cigarillos

Moving to stop the rising sales of cheap, individual units of candy-flavoured cigarillos, Quebec announced that cigarillos would only be permitted in packages of 10 units or more. Currently, for example, Prime Time International is selling single cigarillos for \$1.50.

But unfortunately, the regulation drafters then wrote that that prohibition “does not apply to a package of tobacco or a unit of tobacco sold at a price higher than \$5.”¹¹ This exemption could mean that packages of 2 or 3 cigarillos could be sold for as little as \$5, in kiddie packs.

Health groups in Quebec held a press conference to urge the government to reconsider this exemption, but it is not yet clear if the request will be followed, as the results of the consultation process were not known at the time this report was published.

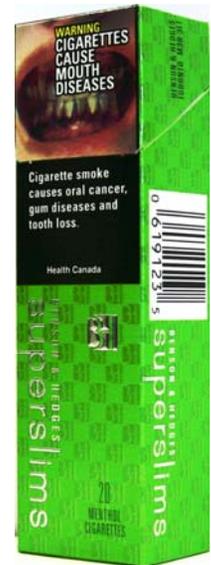
New products emphasize ‘superslim’

Rothmans, Benson & Hedges brought a new product to Canada recently, launching its ‘superslims’ menthol and regular cigarettes. The cigarettes are considerably thinner than regular cigarettes, in an obvious attempt to appeal to women.

Meanwhile, JTI-Macdonald, Canada’s third largest tobacco company, brought new XS and Fusion cigarette brands to market. Its pink-coloured XS pack appears to be designed to appeal to women. The cigarettes are sold in

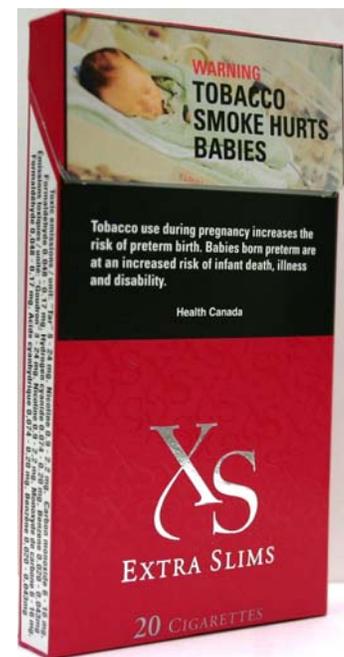
‘slim’ and ‘extra slims’ format.

This is not the first time tobacco companies have associated their products with thinness. In fact, it is something they have been doing for about 80 years. In an ad published in 1929 for Lucky Strike cigarettes, movie star Constance Talmadge was shown saying “*Light a Lucky and you’ll never miss sweets that make you fat.*” Further ad text stated:



Instead of eating between meals ... instead of fattening sweets ... beautiful women keep youthful slenderness these days by smoking Luckies. The smartest and loveliest women of the modern stage take this means of keeping slender... when others nibble fattening sweets, they light a Lucky!

Starting in the 1920s, the manufacturers marketed cigarettes as a diet aid. Up to the present day, the number of women who use smoking as a form of weight control is far greater than men. Some women — whether teen-aged or middle-aged — who have an unhealthy obsession with their weight are afraid they will gain weight if they quit smoking.¹²



Canadian brands, including Matinée Slims,

Contessa Slims, and Craven ‘A’ Super Slims, were designed specifically with women in mind and reinforce the association between thinness and smoking.

Redesigned Player’s packages

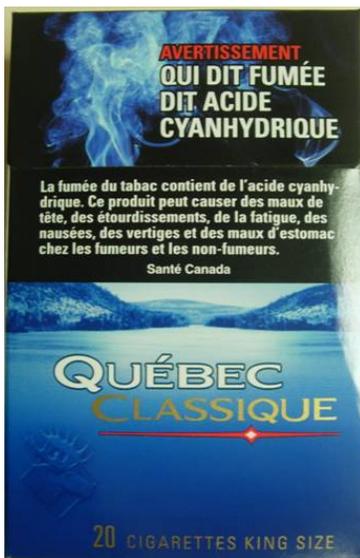
Imperial Tobacco Canada also launched a flashy new side-sliding package for its very popular Player’s brand cigarettes.

In addition to the new Player’s Black + Red brand cigarettes, Imperial Tobacco Canada has also launched Player’s Black + Silver and Player’s Black + Gold cigarettes, all of which are sold in the new Player’s slide-pack.



Not to be outdone,

Rothmans, Benson & Hedges has launched a Menthol version of its discount Accord brand. It has also introduced a new brand into its Canadian Classics product line, called Québec Classique, designed to appeal to smokers in Québec.



Retail store owners move to comply with new display bans in provinces

Big steps forward in the campaign to move tobacco out of sight and out of mind were taken when Canada’s two most populated provinces banned retail tobacco displays on May 31st. Ontario and Quebec joined Nunavut, Prince Edward Island, Nova Scotia and B.C. in banning these displays. On July 1st Alberta will join the club. New Brunswick will ban displays on January 1st next year and the Yukon will follow on May 15th.

Despite efforts to convince governments that a ban on tobacco displays at point-of-sale was being implemented too quickly for them to comply with, retailers in both Ontario and Quebec are, for the most part, living up to the spirit and intent of the new regulations.

In addition to the complete bans in effect or about to take effect, retail display *restrictions* (i.e. tobacco products may not be visible in stores where minors have access) are in effect in Saskatchewan (2002), Manitoba (2004), and in the Northwest Territories (2006).

Display bans have been opposed by the tobacco industry and convenience store owners across the country.

According to an article published in *The Edmonton Journal*, Imperial Tobacco has financially assisted some retailers based on “their service, volume and performance,” so that they can have new shelving units installed to comply with the ban.¹³

The same article noted that Alberta retailers received \$12 million from the tobacco industry in 2006 to prominently display their products, a figure that has grown 63 per cent since 2001.¹⁴

‘Contraband tobacco’ studied by House of Commons Standing Committee

Representatives of the Canadian Tobacco Manufacturers’ Council (CTMC) and Grand River Enterprises (GRE) appeared as witnesses before the Standing Committee on Public Safety and National Security (SECU) on May 12th. The SECU is studying ‘contraband tobacco’ which, according to research funded by the tobacco industry, has an estimated 30% of the market in Ontario and Quebec.



Benjamin Kemball, president and chief executive officer of Imperial Tobacco Canada, spoke on behalf of the CTMC and told the committee that governments in Canada are being defrauded of \$1.6 billion in foregone revenue annually by the

illegal sales. Ten billion illegal cigarettes were sold in Canada in 2007, said Kemball, and “all the indications since then are that it [the illegal market] has continued to grow rapidly.” The illegal tobacco trade, according to Kemball, is now the second largest supplier of cigarettes in the country and has overtaken Rothmans, Benson & Hedges, and JTI-Macdonald in market share:

It's well on course to becoming the leading supplier nationally—ahead even of Imperial Tobacco, which manufactures 14 billion cigarettes a year.

Now, of that 22% that the illegal products represent, 93% originate from first nations reserves [...] These products violate a wide range of laws and regulations, including the Excise Act, the Tobacco Act, and the

Consumer Products Labelling Act, amongst others. The remainder of that 22% is attributable to cigarettes smuggled in from other countries, and only 1% is attributable to counterfeit—basically the illegal copies of recognized brands, typically smuggled in from countries such as China.

Kemball said that the legal Canadian tobacco industry supports the use of taxation to discourage kids from smoking. But he went on to say that if laws are not applied uniformly and effectively, governments will have no other choice but to roll back taxes.

Tobacco companies have long recognized prohibitive pricing, achieved when governments effectively employ tax policies, as one of the most dangerous threats to their success. Indeed, World Bank research indicates that every 10% increase in price achieves a four per cent decrease in overall tobacco consumption. Therefore, Kemball’s words should be taken with a grain of salt, as they are likely more a public relations strategy than a show of support for high taxes from tobacco companies.

If a tobacco tax rollback was implemented, it would lead to a dramatic increase in consumption and related deaths, which is why asking for a rollback is not a politically smart move for the manufacturers. In order to get around these facts, tobacco companies have long worked with and funded front groups to deliver the message; which could be why Michel Gadbois, executive vice-president of the Canadian Convenience Stores Association, during his appearance before the committee, asked repeatedly for tobacco tax cuts.

Jerry Montour, chief executive officer of GRE, urged committee members to deal with the supply of raw materials (tobacco leaf, cigarette paper, filters) to the illegal manufacturers. He



suggested that banning the supply of raw materials to manufacturers who do not comply with federal laws might be an effective way to deal with the crisis. He said confusion exists as to who has the authority to tax tobacco products in first nation communities, and that clearing up that confusion would be useful.

Montour also warned first nation communities “that allowing the organized crime element to come into first nations territories is like allowing wolves in sheep’s clothing into your communities.” He told committee members that young first nations people have few economic and work opportunities and that the tobacco business is one of the few options. Legitimizing the industry and ensuring a level playing field is critical to ensuring safety. He argued that his legitimate business has benefited his community greatly, leading to 1,000 jobs, spin-off businesses, and company donations through the first nations charity the Dreamcatcher Fund, to which GRE has contributed \$10 million.

GRE recently paid for sponsorship advertising in a Six Nations newspaper, in violation of the federal *Tobacco Act* (see Page 9).

Industry groups form National Coalition Against Contraband Tobacco

The Canadian Convenience Store Association announced the formation of the National Coalition Against Contraband Tobacco (NCACT) on May 27th. Founding members of the coalition include the Canadian Tobacco Manufacturers’ Council, the Canadian Taxpayers Federation, The Canadian Chamber of Commerce, the Retail Council of Canada, among others. NCACT launched a website, www.stopcontraband.ca, ostensibly to educate Canadians on the growing danger of contraband to kids and communities.

Although it is not clear who is funding NCACT’s work, historically there has been a close relationship between the convenience store sector, a critical component of tobacco marketing, and the manufacturers. Although health groups share NCACT’s objective of eliminating contraband, there are irreconcilable differences between our fundamental public health goals — the protection of health vs. maximization of profits from tobacco sales — and the economic interests of the NCACT. Therefore, health groups refuse to join the coalition, especially since Gadbois recently encouraged governments to cut tobacco taxes. Interestingly there is no mention of their objective of lowering tobacco taxes on the NCACT website.

Flyers urging members of the public to ask their local politicians to act against contraband tobacco are being distributed by the National Coalition Against Contraband Tobacco in convenience stores. This particular flyer is from a convenience store in Toronto.

Contraband Facts:

- Criminals are selling contraband cigarettes at high schools in Ontario and Quebec
- One-third of all the cigarettes being smoked are being sold illegally
- Contraband cigarettes are taking needed tax dollars away from health-care and education
- The RCMP has linked contraband cigarettes and organized crime

Ask your local politicians why they're letting this happen.

Rothmans announces 2008 financial results

Rothmans Inc., which owns 60% of Canada's second largest tobacco company, Rothmans, Benson & Hedges (RBH), released its Summary of Financial Results for fiscal year 2008 in May.

Its earnings (profits) for the year were \$117.6 million, compared to \$99.8 million in fiscal year 2007, a \$17 million increase.

It reported that its Canadian market share for fiscal year 2008 was 32.8%, an increase from 31.6% in 2007. It bases the market share calculation on information provided by Nielsen.

Because RBH increased the price of its cigarettes and fine cut across all categories ('discount' to 'super premium'), sales were up by \$52 million, despite fairly marginal increases in shipments of both tobacco sticks (0.2%) and tobacco stick equivalents (fine cut, 2.6%).

In Canada, RBH continues to sell the most products in the 'value-for-money' or 'discount' segment of the market, and as more and more smokers shift down to lower-priced cigarettes, the company claims that it is increasingly chipping away at Imperial Tobacco Canada's No. 1 position.

RBH, like most companies, continues to experience a decline in sales of its premium cigarette brands and fine cut tobacco products. It indicates that sales of contraband tobacco and the general decline in profitability in the Canadian tobacco market (due to consumers shifting to lower-priced cigarettes) will continue to “present significant challenges for RBH for the foreseeable future.”

The company launched international products (Benson & Hedges superslims, Davidoff and Parliament) into the 'premium' and 'super

premium' Canadian cigarette categories, and it hopes these products, combined with its top position in the 'discount' segment of the market, will continue to allow it to “compete vigorously in this changing market.”

In the fourth quarter of its 2008 fiscal year RBH launched the Quebec Classique brand in Quebec, initially pricing it in the mid-tier of the 'discount' category. Prior to the end of March, it moved the brand into the lowest tier of the 'discount' category, making Quebec Classique its lowest priced offering in Quebec. Nationally, its Accord cigarettes are amongst the lowest priced cigarettes on the market.

Court denies tobacco companies' attempt to have feds pay province in medicare cost recovery lawsuit

British Columbia is one of many provinces suing tobacco manufacturers to recover health care costs incurred due to their products. The manufacturers have argued that the federal government has been a major partner in the Canadian tobacco industry for years and that it should be forced to stand trial, too. The companies claim the federal government is “responsible for the wrongful conduct alleged by the province because it created programs requiring warnings on packages, disclosures of amounts of tar and nicotine, and the promotion of “light” and “mild” cigarettes.”¹⁵

The companies argued the federal government should be forced to pay all damages (or a substantial part of the damages) awarded to the province, if the industry is eventually found liable.

On April 10 the B.C. Supreme Court dismissed the tobacco companies' attempt to name the Government of Canada as a third party in B.C.'s medicare cost recovery lawsuit.¹⁶

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GRE International

CELEBRATING
National Solidarity Day!
FREE TO THE COMMUNITY!!!
@ CHIEFSWOOD PARK
JUNE 21, 2008

RIDE FREE ALL DAY
CONKLIN SHOW AMUSEMENT RIDES

COTTON CANDY **CANDY APPLES**

Grand River Enterprises working with the Six Nations community
Sponsored by: **Grand River Enterprises**

This full-page ad by Grand River Enterprises (GRE) was published in the Six Nations newspaper The Turtle Island News on June 18.

It is a clear violation of the federal Tobacco Act which prohibits tobacco companies from advertising their sponsorships.

The ad is but one example of the many ways GRE tries to convince community members of its value.

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