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Unscrupulous methods used by tobacco industry revealed over illicit trade

In the run up to a parliamentary vote that saw [overwhelming support](#) for introducing standardised (plain) packaging for cigarettes, tobacco companies and their supporters made frantic [attempts to influence public and political opinion](#) against the policy.

Since the very first calls for plain packaging, the tobacco industry has waged what is arguably its most virulent battle in recent years against the regulation of its business. It has employed a multi-faceted campaign to influence both public and political opinion, recognising that the former influences the latter.

Exerting influence

A key argument against is that plain packaging is a gift to counterfeiters and will lead to an exponential increase in illicit trade. Despite evidence of [its endemic complicity](#) in this trade [in the past](#), as well as [a fine in 2014 for British American Tobacco](#) and [an investigation](#) of Japan Tobacco International that was still on-going in 2013, the industry has worked very hard to change the public perception of its role from perpetrator to victim and solution provider. It is using the latter in particular to get itself to policy making tables.

In the UK the industry has promoted two main messages: that the amount of cigarettes being smuggled is on the increase; and that plain packaging will make a deteriorating situation much worse, with added scaremongering about organised crime, local corner shop closures and “deadly” illicit tobacco.

In order to effectively promote these two main messages tobacco companies have relied on the classic public relations tactic – the third-party technique – using a seemingly independent messenger with a better reputation and greater credibility to convey arguments.

Since 2011, [Will O’Reilly](#), a former detective chief inspector with the Metropolitan Police, has been paid by Philip Morris International to conduct research and act as an industry spokesman on the illicit tobacco trade. He has featured heavily [in regional press](#) across England stating that illicit tobacco trade is a big problem and will get much worse. O’Reilly has also lobbied on this issue in Scotland, Ireland and New Zealand.

However, recent research by the Tobacco Control Research Group at the University of Bath has exposed how tobacco companies are exaggerating the extent of illicit tobacco in the UK by [commissioning surveys whose methodology and validity are unclear](#), [misquoting government data](#) and [facilitating misleading media coverage](#).

Despite the hype, in recent years [official UK figures](#) suggest an overall decline in the illicit trade, or at worst a small increase. One tobacco company spent £2m on advertising space in national broadsheets. In September/October 2012, Japan Tobacco International (JTI) published an advert in print and digital versions of the Financial Times, The Times, The Telegraph, the Guardian and the Evening Standard which portrayed illicit trade as a large and growing problem in the UK.

Following complaints to the Advertising Standards Agency [the agency ruled](#) that JTI could not claim that “the black market in tobacco is booming”, nor that the UK suffered “£3 billion in unpaid duty last year” as this figure was the very top limit of an estimate of revenue loss by Her Majesty’s Revenue and Customs (HMRC). The true figure is likely to be much lower.

Misrepresenting Australia

The [promotion of industry-funded research](#) is part of their campaign to claim that illicit trade has risen in Australia since plain packaging was introduced there in December 2012. But this research has been dismissed as flawed by both [the Australian authorities and the UK's 2014 Chantler Review](#). Peer-reviewed research found that one year post-implementation of the policy, the availability of illicit tobacco in small retail outlets [was unchanged](#) as was the proportion of smokers reporting [use of unbranded illicit tobacco](#).

A non-exhaustive list [of tobacco companies](#) and third-party organisations in the UK have nevertheless continued to promote the conclusions of these studies: [the Tobacco Manufacturers' Association](#), tobacco company front-groups [Forest](#) and the [Tobacco Retailers Alliance](#), right-wing think tank the [Institute of Economic Affairs](#), retail groups with fee-paying tobacco company members such as the [Petrol Retailers Association](#), the [National Federation of Retail Newsagents](#) and the [Scottish Grocers' Federation](#) and the [Consumer Packaging Manufacturing Alliance](#). MPs such as [Ian Paisley Jr](#) and [Nigel Farage](#) have also cited the conclusions of industry-funded studies when speaking out in opposition.

Following the government announcement on January 21 2015 that it planned to legislate for plain packaging prior to the May general election, the National Federation of Retail Newsagents, which lists tobacco companies among its fee-paying members, sprung into action. The federation has been strongly [encouraging its members](#) to lobby their MPs, has [marched on parliament](#) in plain white masks and has distributed emotive postcards to the public that were pre-addressed to chancellor George Osborne, citing the illicit trade as a reason for opposing the policy.

A [recent study](#) funded by Cancer Research UK of 62 small retailers found that despite 81% believing that they were dependent on tobacco sales for footfall, 94% acknowledged that profit margins on tobacco products was low and 40% were interested in reducing their reliance on tobacco.



Profit margins. John Stillwell/PA

Lobbying for policy access

As they scaremonger over the problem, the industry has been trying to position itself as part of the solution.

Many local authorities have signed the Local Government Declaration on Tobacco Control [which relates to Article 5.3](#) of the world's first global public health treaty, the Framework Convention on Tobacco Control, which states:

In setting and implementing their public health policies with respect to tobacco control, parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

Yet in the last few months, documents provided to the Tobacco Control Research Group show that the Tobacco Manufacturers' Association, which is [wholly financed by British American Tobacco, Imperial Tobacco and Gallaher](#) (owned by JTI) has been lobbying local authorities in both Scotland and England for access.

Determined to be included in local authority strategies on the illicit tobacco trade, the association commissioned a legal opinion which it sent to local authorities in February arguing that neither the declaration they had signed, nor Article 5.3 recommend that local authorities "sever links with the tobacco industry ... or cease partnership working."

Collaborating with Crimestoppers



Unfortunate bedfellows [Crimestoppers](#), [CC BY](#)

Tobacco companies are also forging ahead with new partnerships with other organisations too. In January 2015, [one trade magazine reported](#) how JTI had “joined forces with the independent crime fighting charity Crimestoppers to work together to stamp out the illegal tobacco trade across the UK”.

That same month Crimestoppers drew criticism from some in the public health community for re-iterating tobacco industry arguments that since plain packaging had been introduced in Australia “illicit had increased” and that in the UK it might be “good for fakers”. Sheila Duffy, the head of ASH Scotland, said she was deeply worried by these activities:

Organisations whose purpose is to protect community safety and well-being, or to represent the interests of small businesses, are drawn into partnerships with this lethal industry and lend it their profile and respectability. We have a saying in Scotland ‘It takes a lang spoon tae sup wi’ the deil’. I suspect anyone supping with the tobacco industry is likely to get burned sooner or later.

While acknowledging that illicit tobacco is an important issue that will require ongoing enforcement by HMRC, the Chantler Review concluded that there was “no convincing evidence to suggest that standardised packaging would increase the illicit market”.

HMRC’s [own impact assessment](#) of the likely impact of plain packaging on the illicit trade stated:

‘We have seen no evidence to suggest the introduction of standardised packaging will have a significant impact on the overall size of the illicit market or prompt a step-change in the activity of organised crime groups.’

These conclusions, combined with the scale of tobacco industry tactics and the fact that independent evidence from Australia shows that, contrary to industry claims, there [is no evidence of an increase in illicit trade](#) since the introduction of plain packaging in 2012, illustrates that the illicit trade argument is, once again, being misused by the tobacco industry to influence policy decisions.

To read more about the tobacco industry and why its rally cry against the illicit trade isn’t quite as it seems, [click here](#).

Authors



1.

[Karen Evans-Reeves](#)

Research Associate for the Tobacco Control Research Group at University of Bath

2.



[Andrew Rowell](#)

Senior Research Fellow at University of Bath

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Tobacco industry rallies against illicit trade – but have we forgotten its complicity?

<https://theconversation.com/tobacco-industry-rallies-against-illicit-trade-but-have-we-forgotten-its-complicity-38760>

HMRC crack down. Mark Marlow/PA

The battle over the introduction of plain packaging has revealed the unscrupulous tactics used by the tobacco industry to influence and counter. [Evidence shows a multi-faceted campaign](#) that includes using industry-funded research to falsely claim that plain packaging will lead to a rise in cigarette smuggling and illicit trade. This is despite the fact that these companies have been complicit in this very trade.

There is extensive historical evidence of transnational tobacco companies' complicity in facilitating the smuggling of their own cigarettes. Complicity is suspected when companies export billions of cigarettes to countries that do not have a demand for such large volumes. The cigarettes find their way onto the black market and are smuggled into countries without paying appropriate duty.

As the tobacco industry wages what is arguably its most virulent battle in recent years against the regulation of its business – including [threatening legal action](#) against moves [to standardise packaging](#). Here we provide a snapshot of the big four transnational companies operating in the UK and their relationship with the illicit trade – the list of evidence is not exhaustive.

British American Tobacco

In January 2000, the [Guardian newspaper reported](#) that British American Tobacco's (BAT) own documents revealed how the company had "condoned tax evasion and exploited the smuggling of billions of cigarettes in a global effort to boost sales and lure generations of new smokers."

Later the same year, BAT also faced [serious racketeering charges in Colombia](#) “arising from its involvement in organised crime in pursuit of a massive, ongoing smuggling scheme.”

On July 15 2010, in an agreement between the European Commission and BAT the Tobacco Company [paid US\\$200m](#) to settle smuggling-related issues.

Just last year, in 2014, BAT [was fined £650,000 for over-supplying](#) its own product to Belgium.

Imperial Tobacco

Imperial Tobacco, the fourth largest tobacco company in the world, and the company with the largest market [share in the UK](#), has also been under fire.

In 2002, according to Her Majesty’s Revenue and Customs (HMRC), genuine Imperial brands accounted for 55% of the 17 billion cigarettes smuggled into the UK that year. Consequently, when the company was questioned about over-supply to countries notorious for smuggling at an appearance in front of the Commons public accounts committee, to which it claimed ignorance, [Imperial’s chief executive was told](#): **“One comes to the conclusion that you are either crooks or you are stupid, and you do not look very stupid.”**

Imperial [allegedly exported 1.7 billion](#) cigarettes a year to Latvia which was enough for every man woman and child in the country to consume 722 cigarettes a year.

Philip Morris International

In 2004, Philip Morris International (PMI) [paid the European Union US\\$1.25 billion](#) to settle claims over tobacco smuggling.

As part of this settlement, PMI agreed to produce an annual report called Project Star about illicit tobacco in the European Union. An [evaluation of Project Star](#) by the Tobacco Control Research Group at the University of Bath found that the report **“served the interests of PMI over those of the EU and its member states”** and relied too heavily on their own surveys that were not independently verified.

Gallaher

Between 2005 and 2008, a legal battle fought by Gallaher (acquired by Japan Tobacco International in 2007) exposed its own facilitation of tobacco smuggling in which more than 20,000 internal documents between the company and a former Cypriot distributor. During the case the distributor, Ptolomeous Tlais, [alleged the company](#) set up a trading “environment” conducive to illegal activity.

Japan Tobacco International

In 2011, the [Organised Crime and Corruption Reporting Project](#) (OCCRP) revealed that Russia and the Middle East were the “hub of smuggling by JTI distributors” and that JTI’s own investigators said the company “did almost nothing when faced with reports ...”

In 2013, JTI [remained under investigation](#) by OLAF, the European Union’s anti-fraud office for these smuggling offences. An enquiry has been made in 2015 to find out if this investigation is still ongoing.

[Click here for](#) more information on the tobacco industry, its involvement in illicit trade and its attempts to influence public health policy. And for a full history and documents, visit [TobaccoTactics.org](#) .