

Backgrounder on the Canadian Tobacco Market



2013 Edition

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 manufacturer in Canada with a market share of 51.2% in 2012. The company has been fully owned by British American Tobacco (BAT) since 2000.
- BAT's profits increased 15% to \$8.3 billion US in 2012.
- Imperial's head office is located in Montreal, Quebec. Its products are manufactured in a BAT plant located in Monterrey, Mexico.
- Marie Polet is 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 33.5% in 2012. The company is fully owned by Philip Morris International (PMI) since 2008.
- PMI's profits increased 2.4% to \$8.8 billion US in 2012.
- RBH's head office is located in Toronto. Its products are manufactured in Quebec City and in 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/marketpages/pages/market_en_ca.aspx.

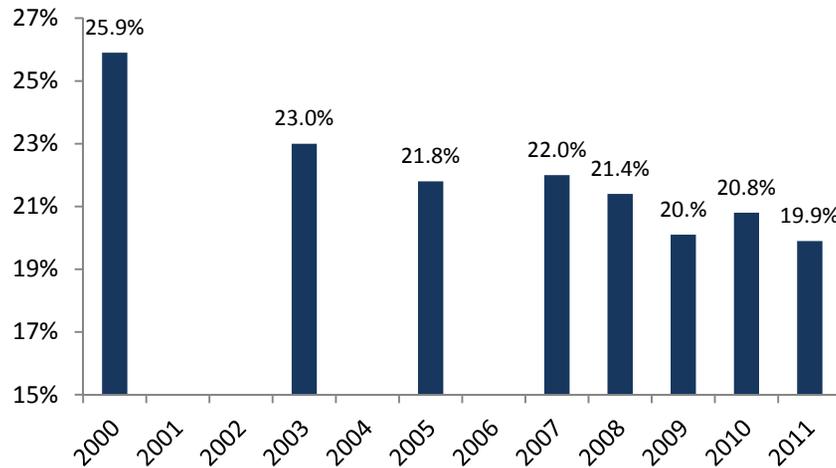


JTI-Macdonald

- JTI-Macdonald is the third largest tobacco manufacturer in Canada with a market share of 14.8% in 2012. The company has been fully owned by Japan Tobacco International (JTI) since 1999.
- JTI's profits increased 32% to \$3.3 billion US in 2012.
- 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.

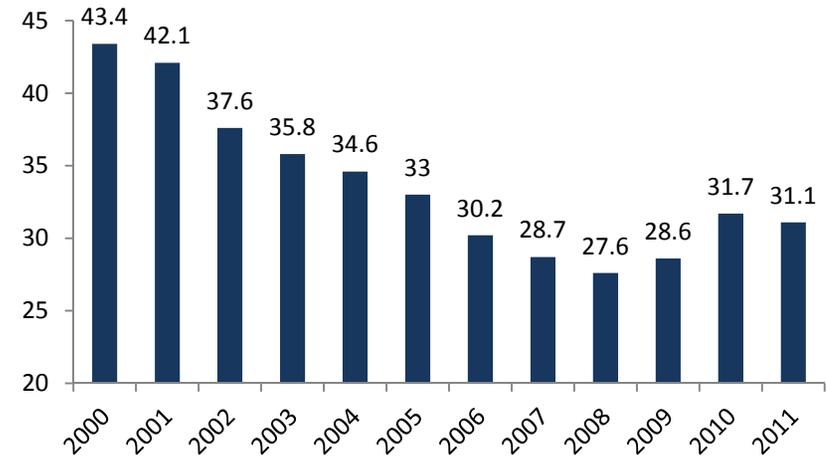
Key Canadian tobacco market indicators

Daily and Occasional Smokers in Canada, age 12+



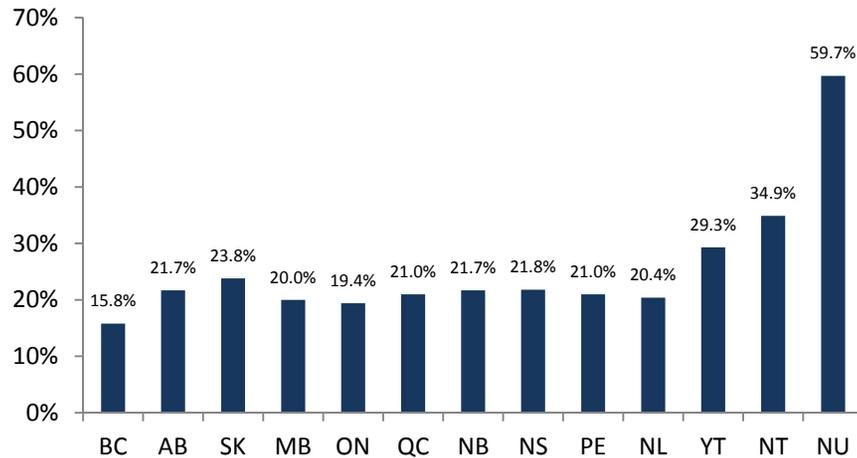
Source: Canadian Community Health Survey

Cigarette Sales in Canada (in billions)



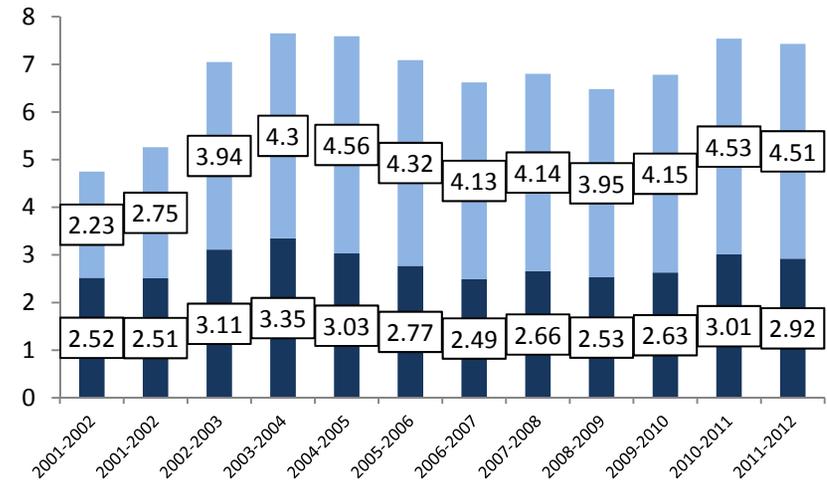
Source: Health Canada

Prevalence in Provinces and Territories, 2011 (age 12+)



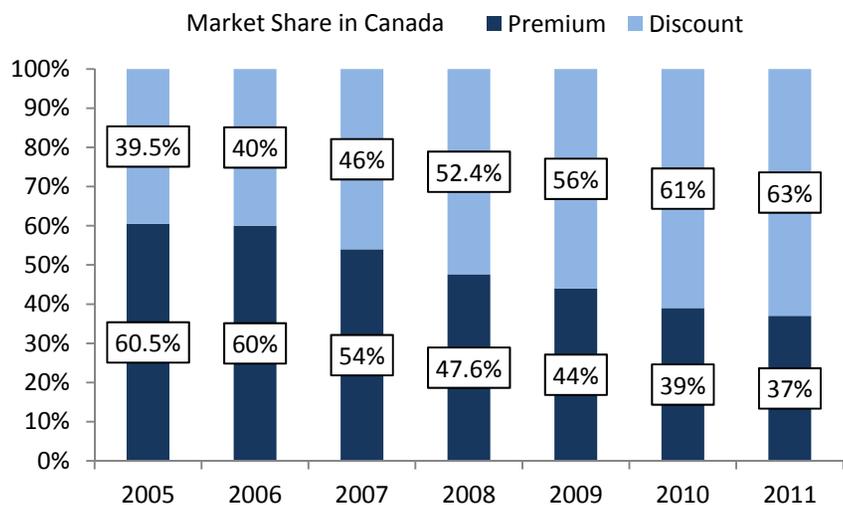
Source: Canadian Community Health Survey

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

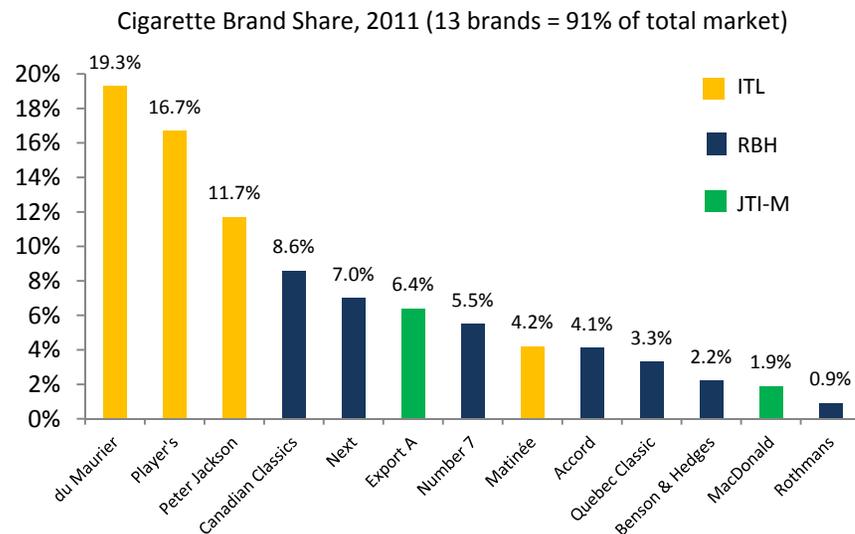


Source: Physicians for a Smoke-Free Canada

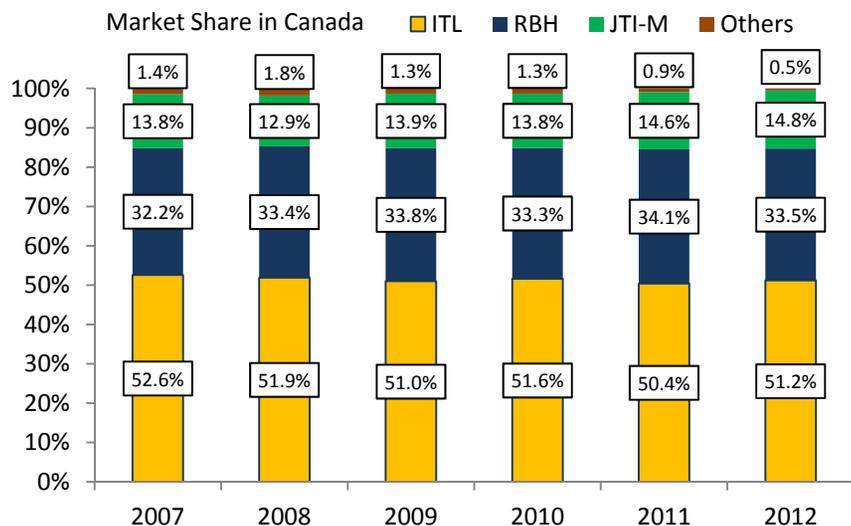
Key Canadian tobacco market indicators



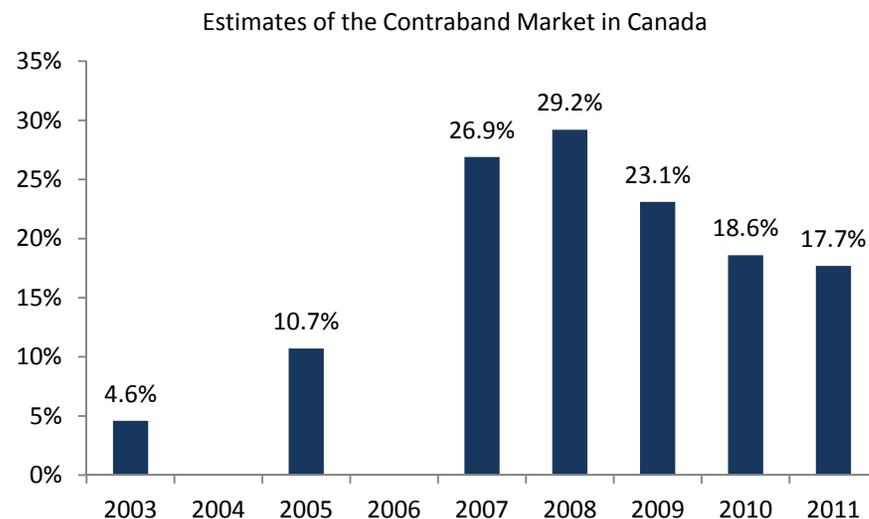
Source: Citi Group



Source: Euromonitor International



Source: Citi Group and company financial reports



Source: Physicians for a Smoke-Free Canada

Major issues for the tobacco industry

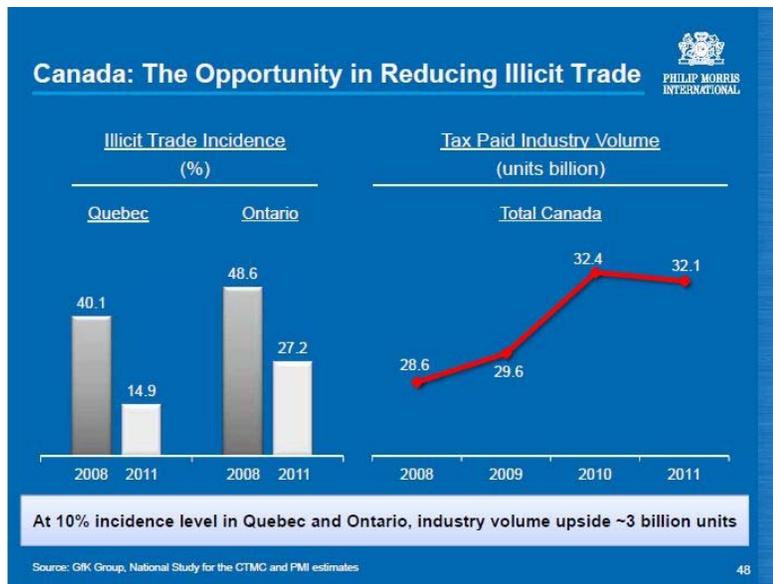
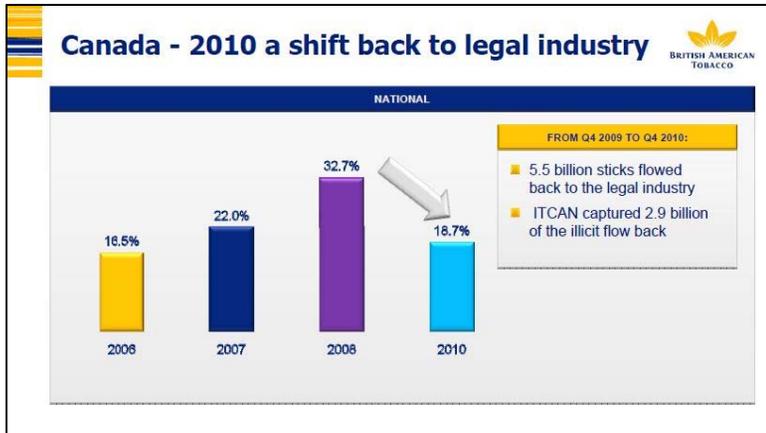
Contraband

The tobacco industry has focused a great deal of its government and public relation efforts on the contraband issue. Much of the industry’s messaging is conveyed by its front group, the Canadian Convenience Stores Association (CCSA), and its four regional counterparts which are led by former tobacco industry’s staffers (www.conveniencestores.ca). Such a strategy is not surprising since there is far more public sympathy for local convenience stores than for the discredited tobacco manufacturers. The CCSA launched in 2008 the National Campaign Against Contraband Tobacco (NCACT) (www.stopcontrabandtobacco.ca), which has gathered support mainly from the business community. Over the past year, the NCACT has been touring many regions in Quebec and Ontario asking citizens to sign a petition and municipalities to urge the federal or provincial government to intensify efforts against contraband.^{1, 2, 3}

The tobacco industry, through its NCACT campaign, claims that “contraband tobacco is a serious problem in Canada that is getting worse each day.”⁴ The CCSA also alleges that illicit trade is responsible for thousands of convenience store closures across Canada.⁵ The CCSA doesn’t even hide the fact that the focus on the contraband issue is not only to curtail illicit trade but aims as well to persuade governments “to adopt a freeze on new regulation or taxation of legal tobacco products until the authorities have significantly reduced the contraband tobacco rate.”⁶ It is clear that their only concern is to increase their own sales.

Such claims are typical from an industry notorious for elevating deceit to an art form. The facts paint a far different picture of the reality:

- Governments continue to step up enforcement measures to address the issue;^{7, 8, 9}
- The industry admits internally that these measures are effective and have led to a substantial decrease in illicit trade (see BAT and PMI slides on the left);^{10, 11}
- A glance at market indicators (see bar charts on previous pages) show that sales of legal cigarettes and government revenues increased after 2008 while smoking prevalence remained relatively stable, confirming a shift from the illicit to the licit cigarette trade;
- According to official government numbers, tobacco points of sale in Quebec, one of the provinces most affected by contraband, increased from 7509 to 7725 between 2007 and 2010.¹²



Major issues for the tobacco industry

Health warnings

The Supreme Court of Canada stated in 1995 that “It is well established in Canadian law that a manufacturer of a product has a duty in tort to warn consumers of dangers inherent in the use of its product of which it has knowledge or ought to have knowledge.”¹³ According to the Ontario Court of Appeal, “[the warning] should be communicated clearly and understandably in a manner calculated to inform the user of the nature of the risk and the extent of the danger; it should be in terms commensurate with the gravity of the potential hazard, and it should not be neutralized or negated by collateral efforts on the part of the manufacturer.”¹⁴

In the case of the tobacco industry, the US Federal Court found in 2006 that it is an industry “that survives, and profits, from selling a highly addictive product which causes diseases that lead to a staggering number of deaths per year, an immeasurable amount of human suffering and economic loss, and a profound burden on our national health care system. Defendants have known many of these facts for at least 50 years or more. Despite that knowledge, they have consistently, repeatedly, and with enormous skill and sophistication, denied these facts to the public, to the Government, and to the public health community.”¹⁵

Therefore, it came to no surprise that the Canadian tobacco industry pulled out the big guns to lobby the federal government intensively to shelve the introduction of the *Tobacco Products Labelling Regulations (Cigarettes and Little Cigars)* in 2011, which updated and refreshed the health warnings and increased their size to cover 75% of the tobacco package.¹⁶ Unsuccessful, the industry has recently turned to the courts to challenge the constitutionality of the new regulation, as it did with the previous two labelling regulations, claiming that “The impugned measure of expanding health warnings to 75% is not rationally connected to a goal of reducing tobacco consumption.”¹⁷

In November 2012, the Attorney General of Canada asked the Ontario Superior Court of Justice to toss out the companies’ constitutional challenge of the new health warnings. According to the federal government’s statement of defense, “any violation of freedom of expression over a requirement to include larger warnings on the surface of cigarette packages is justified.”¹⁸ The ruling is pending.

One final point, there is still no news from the federal government if it will proceed with a second phase of illustrated health warnings for other tobacco products than cigarettes and little cigars.¹⁹



Major issues for the tobacco industry

Litigation

In its latest annual report, Philip Morris International, the parent company of Rothmans, Benson & Hedges, expresses concern that “litigation related to tobacco use ... could substantially reduce our profitability and could severely impair our liquidity.” The company points out that “Damages claimed in some tobacco-related litigation are significant and, in some cases in Brazil, **Canada**, Israel and Nigeria, range into the billions of U.S. dollars (emphasis added).”²⁰

Although the tobacco industry is facing a multitude of legal suits in Canada from governments and victims, it had been able to continuously push back the trial phase of many cases—until 2012. Indeed, two combined class action lawsuits representing ill and addicted victims of tobacco products are currently being pleaded before the Quebec Superior Court in Montreal, Quebec (*Conseil québécois sur le tabac et la santé c. JTI-Macdonald Corp.*).^{21, 22} The victims are seeking \$27 billion in damages from the industry. The two primary law firms of Bélanger, Lauzon & Lespérance and Trudel & Johnston (see left picture) took more than a year to present their case to respond to specific questions raised by the certifying judge in 2005, such as:

- Whether the respondents knew and were presumed to know the risks and dangers associated with the consumption of their products;
- Whether the respondents implemented a systematic policy of not disclosing those risks and dangers;
- Whether the respondents trivialized or denied those risks and dangers.

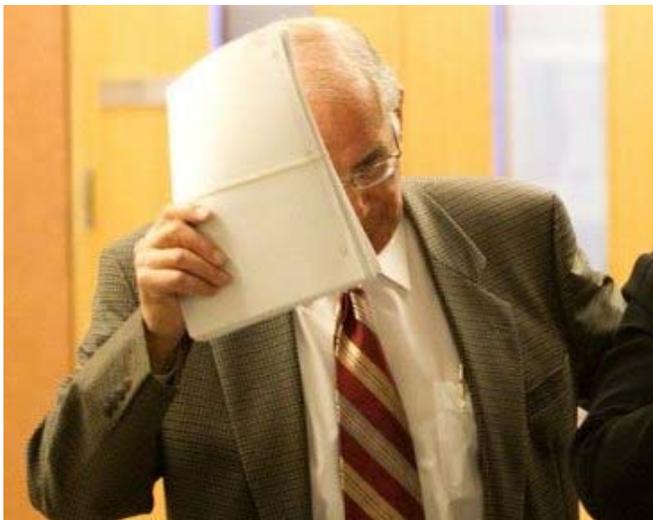
A highlight of the trial was the alleged systematic destruction of internal research documents by former Imperial Tobacco vice-president and legal counsel Roger Ackman (see left picture) to avoid discovery at trial. The story made headlines across the country.^{23, 24} Jeffrey Wigand, the former Brown & Williamson executive who was portrayed in the Hollywood movie *The Insider*, also gave detailed accounts about industry document tampering.^{25, 26} The tobacco industry is expected to present a vigorous defence which, according to the latest estimates, will last over a year.

The case can be followed on a daily basis through the excellent blog “Eye on the Trials” that was set up by the Quebec Public Health Association and is authored by Cynthia Callard and Pierre Croteau.²⁷ There is also a website which gives access to all the trial exhibits, transcripts and interim rulings.²⁸



Source : Info-tabac

Law firms of Trudel & Johnston and
Bélanger, Lauzon & Lespérance



Former Imperial Tobacco VP and legal counsel Roger Ackman

Major issues for the tobacco industry

E-cigarettes

Although the Canadian tobacco industry has not been very vocal about e-cigarettes, there is no doubt that it is paying close attention to the rapid growth in sales of the electronic device, with or without nicotine. For example, the Edmonton-based company Smoke NV generated \$6 million in revenue in 2012, a jump of 432% compared to the previous year.²⁹

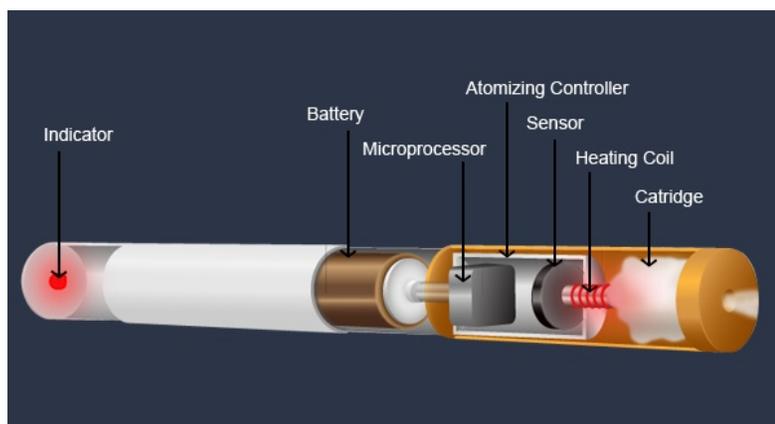
It might seem like pocket change compared to the hundreds of millions of dollars made each year by the main cigarette manufacturers, but investment firms such as Wells Fargo Securities predict a bright future for e-cigarettes, so much so that it believes that the sale of the device “could surpass traditional cigs within the next decade” in the U.S.³⁰ It is worth noting as well that Lorillard, a U.S. tobacco company, purchased the electronic cigarette company blu last year (see left picture).³¹ E-cigarettes also attracted some attention recently because a former U. S. Surgeon General, Dr. Richard Carmona, decided to join the Board of Directors of NJOY, one of the largest e-cigarette companies in the U.S.³² Finally, the UK’s National Institute for Health and Clinical Excellence is expected to license a similar device from BAT to be used as part of its tobacco harm reduction strategy.³³

One might wonder why these devices are generating more and more interest in the economic and health sectors. An e-cigarette essentially consists of “a cartridge containing nicotine, water, and flavouring in a base of propylene glycol (PG), vegetable glycerine (VG), or polyethylene glycol 400...; an atomizer containing a heating element which turns the liquid nicotine in vapour; and a battery to power the atomizer and the indicator light that glows like a lit cigarette when the user inhales on it” (see left diagram).³⁴ Proponents of e-cigarettes view the product as a much safer alternative than regular cigarettes to obtain nicotine because the vapour does not contain the dozens of carcinogens generated by the combustion of tobacco. The product also mimics very closely the activity of smoking. Opponents contend that these devices are not completely safe and could undermine existing tobacco control policies such as smoking bans in public venues and workplaces.

In the meantime, Health Canada bans the sale of these devices if they contain nicotine or if manufacturers make health claims,³⁵ but has not followed through with rigorous enforcement. In our view, these products have an undeniable potential for public health benefits. However, they should be appropriately regulated so they can be legally sold with nicotine while not undermining important gains in denormalizing smoking, preferably under the *Tobacco Act*.



Source: <http://electroniccigarettescost.com>



Source: <http://betterecig.com/eciggi-school-diagrams>

Major issues for the tobacco industry

Advertising and packaging

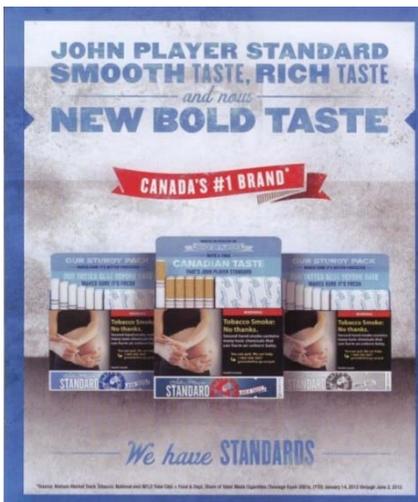
The federal *Tobacco Act* severely restricts the tobacco industry’s advertising and promotional options. In a nutshell, just information or brand-preference ads are permitted and such ads are only allowed on signs in establishments where minors are not permitted by law or in publications sent by mail to a named adult.³⁶ Advertising in publications with an 85% readership is no longer possible since the adoption of the *Cracking Down on Tobacco Marketing Aimed at Youth Act* in 2009.³⁷ In Quebec, the combination of both the federal and provincial tobacco acts is equivalent to a complete advertising ban.³⁸ However, both acts do not prevent tobacco manufacturers from advertising in trade magazines sent for example to retailers (see left pictures).

Add the fact that tobacco displays are banned in retail stores and that new graphic health warnings cover 75% of both main faces of the 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 between cigarette brands because manufacturers all use the same kind of tobacco. Consumers are led to believe that a product has different characteristics because of its name and package.³⁹ 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.”⁴⁰

The ads on the left are very good examples of the lengths the tobacco industry is willing to go to continue to prominently display its brand names and trademarks regardless of the existing regulatory environment. The top ad shows how manufacturers are continuing to play with the shape and size of their packs (lipstick size packages) to reduce the size of the health warnings and to optimize the available space for their brand names, trademarks and colors. It is also noteworthy that tobacco manufacturers are selecting the second hand smoke and pregnant woman health warning, since it is one of the least repulsive and it probably doesn’t resonate as much with men and non-pregnant women. The positioning of the packs is also very telling. The pack in the forefront is covering the health warning of the pack lying horizontally. The pack in the forefront is actually leaning backwards, which has a visual effect of reducing the size of the warning. The reflection of the light makes it difficult as well to distinguish what is the picture on the pack. As for the bottom ad, it is not surprising that tobacco manufacturers are now using the inside of the pack for advertising purposes or to extend the branding. By doing so, every time a smoker opens a pack, the prominence of the warning shrinks. These observations provide further proof that the only solution to really eliminate the industry’s deception about its products is to implement plain and standardized tobacco packages, as in Australia.



Source: *Your Convenience Manager Magazine*



Source: *Convenience & Carwash Magazine*

Other tobacco companies

Grand River Enterprises

This backgrounder focuses mostly on the three main tobacco manufacturers, since they capture 99.5% 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 it seems that 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.”⁴¹

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 flavours that make them very attractive for youth. Indeed, 27% of youth between the ages of 15 and 19 had smoked a cigarillo in 2011. Among cigarillo users in that age group, 80% of them smoked flavoured products.⁴² 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 flavours, 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 flavours. Although the federal government did not amend the *Act* in response to these changes, it did conduct raids at the warehouses of Casa Cubana, Scandinavian Tobacco Group Canada and Distribution GVA Inc. in January 2012 and seized 25 million units of their products for non-compliance.⁴³

Smokeless Tobacco Companies

The National Smokeless Tobacco Company Ltd. is probably the largest distributor of smokeless tobacco products in Canada. The company is located in Montreal and is the distributor of common brands such as Skoal and Copenhagen. In Canada, only 0.5% of the adult population used these products in 2011. Their use is more common in the provinces of Alberta and Saskatchewan. Among youth, 5.2% of 15-19 year-olds have tried these products in 2011.⁴⁴ These products continue to be sold with flavours and are not required to display a graphic health warning. For the time being, there is still no indication that the federal government will proceed with making it mandatory for smokeless tobacco products to be sold without flavours or to carry illustrated health warnings.

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