

SATANICA

BRUSSELS PRACTICE

PROVIDING FAKE PUBLIC RELATIONS TO CONTROVERSIAL INDUSTRIES SINCE 1957

MEMORANDUM: E-CIGARETTES – ADVICE TO CIGARETTE MAKERS

- 1) **The situation.** Clients should be aware of the emerging threat of e-cigarettes to the established cigarette-based business model of major tobacco companies. Compound growth is exceeding 50%, many users report a high degree of satisfaction, many are using them to reduce consumption or quit smoking, the products are inexpensive, and they are improving all the time. Investment analysts see consumption of e-cigarettes overtaking cigarettes by 2023 in the United States and many influential commentators recognise e-cigarettes as a major disruptive technology in the 21st Century. This situation is clearly very worrying and demands a strategic response.
- 2) **Strategic aims.** There are two mutually reinforcing objectives:
 - a) *Win the battle:* limit the incursion of e-cigarettes into the cigarette market in order to control and suppress the rate of decline of smoking;
 - b) *Bayonet the wounded:* maximise tobacco industry share of the remaining e-cigarette market to capture any residual value from a diminished category.
- 3) **Ineffective strategic response.** Firstly, we must advise what will not work – and that is a fair competitive fight. It will not be sufficient simply to enter the highly competitive market, buy e-cigarette companies and then try to close it down. That strategy would be defeated by competition, the rise of non-tobacco e-cigarette players and new entrants. They would simply market better products and take market share from both the cigarette and e-cigarette businesses of tobacco majors.
- 4) **Effective strategic response.** The correct and only viable approach is to rely on *regulation*. The ideal regulation of e-cigarettes will have two main attributes, aligned with the aims in 2) above:
 - a) To make e-cigarettes as unattractive as possible relative to smoking;
 - b) To set design parameters for e-cigarettes that are most easily met by tobacco companies and fit best with the established cigarette business model.
- 5) **Regulatory agenda.** Here in short are the measures to press for and why:
 - a) **Ban advertising:** this always helps incumbents and those already experienced

with marketing under advertising restrictions. It holds back new entrants and means that established distribution channels matter more because it is harder to build up consumer and retailer interest without advertising. A pure win for our tobacco clients.

- b) **Ban flavours.** This is important: it will limit the appeal of vaping and mean fewer people will leave the cigarette franchise and more will try and then relapse to smoking. It will also have the happy consequence of destroying many small competitors and standardising the market around high volume commodity products, like our clients might make. A black market will develop but we will use that to frighten people into using officially sanctioned products (ie. yours) or return to smoking.
- c) **Reduce nicotine strengths.** The regulators will believe they are being responsible, but they are actually making it easier to obtain a satisfying nicotine hit from a cigarette. A near perfect measure! We have been especially delighted by the support received from the German government.
- d) **Cap nicotine quantities.** We have been busy creating confusion about numbers and have been greatly assisted by poor standards of numeracy. A 10mg cap with a 20mg/ml nicotine limit means a maximum of 0.5ml of liquid – about enough for 30 minutes use for a typical user. If they are always running out, they'll give it up or never get started. Perfect!
- e) **Ban refillable devices.** This has many desirable attributes – firstly it punishes the early adopters and occupies them fighting a completely pointless measure. More importantly, it reduces the effectiveness and viability of so-called 2nd and 3rd generation devices. There has always been a risk that users of the cig-alike products favoured by tobacco companies would use them as a stepping-stone to better products – losing them once and for all to cigarettes and to the e-cigarettes made by our clients.
- f) **Warnings and labelling.** By the time we've done the maximum with warnings, information leaflets detailing all known risks however minor or irrelevant, haz-chem symbols etc – the product will take on the look and feel of weaponised anthrax supplied in a nuclear waste container. The benefits are obvious.
- g) **Impose design hurdles.** This is a great way to meet all objectives simultaneously – raising costs, stifling innovation, creating huge burdens with sensible-sounding ideas. Things like *'deliver nicotine doses uniformly and*

consistently’ or requiring that products ‘*cannot be opened or operated by children*’ throw lovely-sounding but unnecessary obstacles and costs in the way of producing e-cigarettes. They are especially pleasing as they do not apply to cigarettes and so help with our main aims. We find civil servants are often frustrated entrepreneurs and quite like to design products themselves, as long as others take the risks of failure. Designing regulations is just *brilliant* for that.

h) **Demand extensive testing, assessment and information.** Even though regulators do not have the faintest idea what to do with it, asking for more data raises costs, slows innovation and makes something safe seem dangerous¹. Also, we will realise great synergies: most of this data will be used by our trusted allies in public health to confuse people and frighten them back to smoking.

6) **Allies – many with us, few are aware.** We have built strong alliances within the European Parliament and European Council – and of course the European Commission is on a retainer and has been at our side from the start². As with all of our work, many of those involved do not even realise they are working for us or even know we exist – and to be fair, we do not cast shadows or reflect that well in mirrors. We have been particularly delighted with co-option of *The Greens* and hope to develop this relationship with clients in coal, Arctic oil exploration and palm oil in due course. Socialists and more feeble conservatives love our line about *protecting the children* and have made it their own, apparently without any understanding of children. The public health community could not have been more helpful – we propose a donation to Cancer Research UK and to hire that splendid professor from London School of Hygiene and Tropical Medicine.

7) **Risks – due process is a clear and present danger.** The main risk to this project is the intrusion of those with knowledge of the products and marketplace into the regulatory process or some sort of requirement to justify what we are doing with evidence. Some of our opponents are now calling for e-cigarettes to be taken out of the Tobacco Products Directive so that a new legislative process can take its course.

a) **Justification.** There would need to be justification of the proposed measures. Somehow our allies would have to find evidence that justifies departing from the

¹ Our clients from Big Tea would like to achieve this for coffee. Ideally a list of the carcinogens in coffee should be measured for every batch and printed on every packet.

² Commissioner Dalli was immensely helpful and impressive from the outset, but his private flights to the Bahamas proved too much even for Satanica’s expense account.

principle of free movement of goods on health grounds, and to be honest for once, there is none. Absolutely none.

- b) **Impact assessment.** “What could possibly go wrong?” they are asking – and unfortunately, the answer is *quite a lot for anyone who is not one of our clients*. If we had to set out the impacts of what we are proposing, we would be in trouble.
 - c) **Consultation.** Very high risk. What would we do if the users, businesses and experts involved started to have a say? We generally advise legislators to ignore unhelpful consultation outcomes. That usually works, but we can sustain that only where there is a modest gap between reality and what we want.
 - d) **Scrutiny.** If we had to send this back to national parliaments, then our Brussels-based coalition-of-unwitting-evil would lose control. That must not happen.
- 8) **Worst-case scenario.** The greatest danger would come from the introduction of the diversions above into the process of regulating e-cigarettes. Some of our enemies are suggesting that Article 18 is mostly removed from the directive:
- a) *Home by Xmas.* Complete the Tobacco Products Directive for tobacco products by December. Unfortunately this is frighteningly logical and delivers a Christmas blow to our clients while keep our Greek allies out of the game.
 - b) *Do something useful in the interim.* They are talking about applying and enforcing the existing extensive base of regulations in the interim, starting straight away. Again, very worrying – it is increasingly clear that there is no real problem with these products that cannot be fixed with some light regulation and we do not want that to become obvious.
 - c) *Take legislation seriously.* Extremely worrying: there is talk of introducing a new legislative proposal for e-cigarettes with justification, impact assessment, consultation and scrutiny. This greatly constrains the scope for the arbitrary and capricious policy-making we have come to rely on to hold this troubling new public health industry down.
- 9) **Further assistance.** As always Satanica consultants are standing by. Please call the *Merchants of Death Helpline* on the usual number if we may assist further.

Brussels, December 2013