

8. Evaluating Tobacco Industry Tactics as a Counterforce to ASSIST

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8. Evaluating Tobacco Industry Tactics as a Counterforce to ASSIST

Tobacco use prevention and control faces a challenge common to several public health issues: the existence of a profit-making industry that actively works to counter its efforts. Consequently, one of the original goals of the evaluation of the American Stop Smoking Intervention Study (ASSIST) was to define an index of protobacco activity as part of its analytic database. Formal efforts toward this goal included a concept-mapping process among key stakeholders, a review of the published literature on tobacco industry tactics, and a review of tobacco industry documents. The concept mapping process yielded eight categories of tobacco industry tactics used to counter tobacco control: lobbying and legislative strategies, legal and economic intimidation, creating the illusion of support, usurping the agenda, harassment, undermining science, media manipulation, and public relations. A review of the published literature and of the tobacco industry documents provided evidence of these tactics.

Significant issues remain for identifying data sources to measure these activities and designing systematic methods to collect data. A quantifiable index of protobacco activity was not completed for the ASSIST evaluation, but progress was made toward developing such an index. While the ASSIST concept-mapping exercise yielded potential categories and weighting data for future metrics efforts and correlated well with the core areas identified above, the development of dynamic quantitative measures of protobacco efforts remains a goal for future tobacco control assessment efforts.

Introduction

In the ASSIST evaluation, the Strength of Tobacco Control index (chapter 2) was developed to represent the public health effort. The original evaluation model also called for an index to represent tobacco industry* efforts, a countervailing force to state tobacco control efforts.¹ White and Bero (Monograph 16, chapter 8) provide in-depth documentation that the tobacco industry did work to counter ASSIST, perceived ASSIST as a significant threat, made and executed plans to counter it, and even evaluated their own efforts. Unfortunately, this analysis could not be used as the basis for a measure of tobacco industry efforts because its purpose was limited to a description of tobacco

*The term *tobacco industry* in this chapter refers to a group of private corporations in the business of selling tobacco products and to their affiliates, who share an incentive to promote the overall use of tobacco. It is not necessarily intended to imply that these companies are working in concert, or that any particular company engages in the use of any particular tactic, or that the tactics represent illegal behavior.

industry responses to ASSIST and it was performed after the ASSIST evaluation had been completed.

The goal of the analyses described in this chapter was to create the tobacco industry counterforce measure described in the ASSIST evaluation conceptual model,¹ a counterforce that “had a dampening effect on the program” (see Monograph 16, chapter 8, page 371). The approach to creating this measure was a “top down” one. That is, a concept mapping study was used to create categories of tobacco industry efforts a priori. Subsequently, these categories were investigated to assess whether they could encompass the extant literature and the tobacco industry documents available during the time in which the search was conducted (1999–2000) and, additionally, whether these sources could become a source of data for the measure of protobacco forces metric described by Stillman and colleagues.¹ Challenges to creating and measuring this index were not surmounted during the period of the ASSIST evaluation, and the evaluation was not able to account for the tobacco industry’s countervailing efforts. However, the work described here will serve as a foundation for those who continue to work on developing a valid and reliable measure of tobacco industry tactics.

Background

At the time of the ASSIST evaluation, it was unknown whether the publicly available tobacco industry documents provided a comprehensive and representative sample of all the actions the industry took to counter tobacco control efforts. Therefore, other sources of information

were looked for to use as a conceptual framework of tobacco industry tactics. A review of the literature yielded two reviews of the tobacco industry’s national and international tactics. Both reviews organize individual tobacco industry efforts against tobacco control into larger categories of tactics. Sweda and Daynard² analyzed how the size, concentration, and wealth of the tobacco industry allowed it to use numerous strategies to interfere with public health. The strategies Sweda and Daynard identify were influencing legislative bodies through political contributions, threatening lawsuits against whistle-blowing media, using front groups, reframing the public debate from the health issue to economic and personal freedoms issues, and attempting to confuse the scientific record.

Saloojee and Dagli³ describe various methods used by the tobacco industry to counter tobacco control efforts and discuss these tactics within the context of the ongoing globalization of tobacco use. Saloojee and Dagli identify nine focal points of the industry’s efforts: engineering consent, mobilizing corporate resources, manufacturing doubt, protecting corporate rights, gathering intelligence, controlling the agenda, peddling influence, promoting voluntary codes and preemptive legislation, and opening markets through trade sanctions and corruption.

These two reviews were useful for understanding the scope of the tobacco industry tactics and validating the underlying principle that protobacco forces exist to disrupt public health programming. Neither review, however, was conducted with an eye toward creating a comprehensive and measurable metric

of industry activity. In addition, on the basis of the tobacco industry documents available at that time, it was impossible to determine how well those tobacco industry efforts represented all that was occurring. Therefore, the experiential knowledge of tobacco control professionals was used to guide development of an index variable for industry tactics.

Expert-based Conceptual Map of Industry Tactics

The first method used to identify tobacco control counterefforts was concept mapping. This mapping project involved a Web-based collaboration that engaged tobacco control experts from across the country; they provided input on the various tobacco industry tactics. Participant input was analyzed with a sequence of multivariate statistical analyses, and the resulting output, including a variety of conceptual maps, was interpreted by a group of experts. This section describes the methods used to develop the conceptual framework and presents the basic results.

Methods

Concept mapping was used to develop the conceptual model of tobacco industry tactics. Concept mapping is a participatory mixed-methods approach that integrates group process activities with several multivariate statistical analyses to yield both a statistical and a visual representation of a conceptual domain. Concept mapping was first described by Trochim and Linton.⁴ Trochim⁵ presents a wide range of example projects.

Participants

Participants in the concept mapping process were those who fulfilled the following criteria: had encounters with tobacco industry resistance to tobacco control programming; had an understanding of tobacco industry challenges to tobacco control; or had published research on tobacco industry documents or behavior. A panel of 34 tobacco control experts was selected to participate. Tobacco industry representatives were not included because their participation could be deemed contrary to the interests of the tobacco companies, making it difficult to confirm the reliability of their responses.

Procedures

The procedure for concept mapping is described in detail by Trochim.⁶ The concept-mapping process took place from July 2000 through September 2000. All data were collected from the participants over the World Wide Web. There were four distinct phases in the process: brainstorming, sorting and rating, data analyses and generation of the maps, and expert panel interpretation of the maps.

Brainstorming. Each of the 34 experts logged on to a private Web page at least once during a 4-week period and responded to the following prompt: “One specific activity/tactic the tobacco industry uses to oppose tobacco control is . . .” Each participant could make as many response statements to the prompt as warranted. The statements were compiled in a list as entered, sequentially. The process generated a total of 226 statements from the 34 participants.

Sorting and Rating. In preparation for the sorting and rating task, similar statements were consolidated into a single representative statement. The objective was to have a final set of mutually exclusive statements, with only one main idea in each, and with no loss of content from the original list. The 226 statements were edited into a final set of 88 statements.

Participants were asked to log on to another Web page for the sorting and rating tasks. Twenty-two of the 34 experts participated in this phase. Each participant conducted an unstructured pile sorting of the statements by grouping the brainstormed statements into piles in a way that made sense to him or her.⁷⁻⁹ Three restrictions were applied to this sorting task:

1. No statement could be its own pile (each pile had to contain at least two statements).
2. There could not be a pile consisting of all the statements.
3. There could be no pile called “miscellaneous” containing unrelated statements.

Each participant was asked to provide a brief label that summarized the contents of each pile. Each participant was asked to rate the 88 statements according to the following instructions:

Rate each statement on a 1-to-5 scale for its relative importance in undermining tobacco control efforts. Use a 1 if the statement is relatively unimportant (compared to the rest of the statements) in undermining tobacco control efforts; use a 5 if it is extremely important. Although every statement probably has some

importance (or it wouldn't have been brainstormed), try to spread out your ratings and use each of the 5 rating values at least several times.

Data Analyses and Generation of the Maps. The analysis* began with construction of a binary square symmetric matrix of similarities for each sort. For any two statements, a 1 was assigned to the corresponding cell if the participant placed them in the same pile; otherwise, a 0 was entered.⁸ A total similarity matrix was obtained by summing across the separate sort matrices. Thus, any cell in this total matrix could have integer values between 0 and 22 (the number of people who sorted the statements), where the value indicates the number of people who placed the pair in the same pile. In addition, in this analysis the final matrix was filtered by changing any matrix values of 1 to a 0. In effect, this means that, for the two statements to be considered at all similar, at least two participants had to have placed the two statements together. This filtering helps minimize the effects of any sorting errors or spuriousness in sorting on the final results.

The total similarity matrix was analyzed with nonmetric multidimensional scaling (MDS) analysis¹⁰ with a two-dimensional solution. The solution was limited to two dimensions primarily for ease of use considerations¹¹ and because it was used as the basis for cluster analysis.

The x,y MDS configuration was the input for the agglomerative hierarchical cluster analysis using Ward's algorithm

*All analyses were made with The Concept System© software, version 1.75 (www.conceptsystems.com).

as the basis for defining a cluster.¹² Using the MDS configuration as input to the cluster analysis in effect forces the cluster analysis to partition the MDS configuration into non-overlapping clusters in two-dimensional space. There is no simple mathematical criterion by which a final number of clusters can be selected. The procedure followed here was to examine an initial cluster solution that was the maximum that was felt to be desirable for interpretation in this context. Then successively lower cluster solutions were examined, with a judgment made at each level regarding whether the merger seemed substantively reasonable. The suitability of different cluster solutions was examined and resulted in acceptance of the eight-cluster solution as the pattern that both preserved the most detail and yielded substantively interpretable clusters of statements.

The MDS configuration of the statement points was graphed in two dimensions. This point map shows the location of all the brainstormed statements; the statements closer to one another are generally expected to be more similar in meaning. A cluster map was also generated. It shows the original statement points enclosed by polygon-shaped boundaries for the eight clusters.

The 1-to-5 importance rating variable was averaged across persons for each statement and across statements for each cluster. Two graphs were developed to display the rating information. The first depicted is a point rating map, which shows the original point map with the average rating per item displayed as vertical columns in the third dimension.

The second is a cluster rating map, which shows the cluster average rating in the third dimension.

Expert Panel Interpretation of the Maps.

Thirteen of the original panel of participants were convened for a face-to-face meeting to review and interpret the results of the mapping process. The interpretation session followed a structured process described in detail by Trochim.⁶ The participants examined the maps to determine whether they made intuitive and rational sense and to discuss what the maps might imply about tobacco industry tactics to disrupt public health programs. They discussed each cluster until a consensus was reached on an acceptable cluster label. The participants then examined the labeled cluster map to determine if any clusters could be grouped into regions. These were discussed, and partitions were drawn on the map to indicate the different regions. Just as in labeling the clusters, the group then arrived at a consensus label for each of the identified regions.

This step-by-step interpretation culminated in a discussion of the overall meaning of the various maps and representations. This discussion resulted in the articulation of the conceptual model of tobacco industry tactics; this model is described below.

Results

In MDS analyses, the *stress value* is the statistic that is commonly reported to indicate the goodness-of-fit of the two-dimensional configuration to the original similarity matrix. A lower stress value

indicates a better fit. In a study of the reliability of concept mapping, Trochim reports that the average stress value across 33 projects was .285 with a range from .155 to .352.¹³ The stress value in our analysis was .237, which is better (i.e., lower) than that average.

In the analyses, an eight-cluster solution best fit the data. The 88 statements and their rankings by perceived importance within clusters are listed in table 8.1. The point-cluster map in figure 8.1 shows all of the tobacco industry tactics statements (points) in relation to one another. Figure 8.2 shows the cluster-rating map, where the layers of each cluster depict the average importance rating, with more layers indicating higher importance. Note that the average represented by the layers in the map is actually a double averaging—across all of the participants and across all of the factors in each cluster. Consequently, even slight differences in averages between clusters are likely to be meaningful. The map clearly shows that, in general, the clusters along the bottom were judged to be more important for undermining antitobacco efforts.

The 13 participants interpreted the map and table in terms of several patterns. The four clusters across the top were thought to describe the tactics that the tobacco industry uses to control tobacco-related messages and issues. These include attempts to undermine legitimate messages from scientific studies (“Undermining Science”), attempts to manipulate the media (“Media Manipulation”), the industry’s public relations efforts (“Public Relations”), and

activities to gain control of the popular agenda (“Usurping the Agenda”). The four clusters across the bottom describe industry actions—what the tobacco industry does. This includes lobbying efforts (“Lobbying and Legislative Strategy”), the use of front groups and artificially created grassroots movements (“Creating the Illusion of Support”), intimidation (“Legal and Economic Intimidation”), and harassment of tobacco control professionals (“Harassment”).

The participants also interpreted a horizontal dimension. Toward the left on the map are clusters that represent tactics that are more hidden or covert in nature. On the right are tactics that tend to be more overt or public in nature. The participants also suggested that the two dimensions can be viewed as forming four quadrants based on the 2×2 combination of these dimensions, and they provided a short label for each quadrant:

Issue Framing = Public + Messages
 Lobbying Tactics = Public + Action
 Science Public Relations = Covert + Messages
 Harassment = Covert + Action

Last, the expert panel agreed on a final labeling for all areas of the map (see figure 8.3).

Lessons from the Concept Map

The concept map represents an empirically derived consensus of a panel of tobacco control experts and may serve as the basis for subsequent measurement development. For example, the individual statements generated by the expert panel may serve as the basis for individual

Table 8.1. Clusters and Statements in Descending Order, by Average Importance Rating

Item #	Statement	Mean
Lobbying and legislative strategies		
85	Writing and pushing preemptive legislation at state level	4.71
8	Creating loopholes in laws and agreements (e.g., the MSA) to allow business as usual	4.67
26	Contributing funds to political groups at federal, state, and local levels to support industry goals	4.57
53	Using clout to influence introduction, advancement, modification, or suppression of bills in legislative bodies	4.43
87	Lobbying to ensure that funds directed to tobacco control are diverted to nontobacco control initiatives	4.38
27	Using clout to limit powers of regulatory agencies (jurisdiction, procedures, budgets)	4.33
63	Providing legislators with contributions, gifts, and other perks	4.29
44	Promoting partial or weak measures as an alternative to effective measures	4.10
52	Inserting limiting language in legislation, such as “knowingly” sell tobacco to minors	4.10
13	Writing weak tobacco control legislation, then arguing that tobacco control measures are ineffective	4.05
17	Ghost writing nontobacco bills (e.g., sewage) with clauses that if enacted, would bring preemption via the backdoor	3.86
7	Lobbying government officials to set unrealistic tobacco control goals to ensure program failure	3.71
61	Using political and/or monetary clout to delay funding of tobacco control programs	3.67
36	Lobbying to ensure that funds are diverted to ineffective tobacco control activities	3.67
62	Working against campaign finance reform to maintain influence	3.67
21	Working against strengthening campaign and lobbying disclosure laws	3.62
19	Promoting tort reform	3.57
41	Using clout to assign tobacco control programs to hostile/apathetic agencies for implementation	3.38
76	Conducting “briefings” of members of Congress, allies, and consultants to sway opinion on an issue	3.19
1	Promoting smokers’ rights legislation	3.14
29	Using tobacco companies’ subsidiaries (i.e., Miller and Kraft) in political opposition to tobacco control legislation	3.05
10	Ensuring supportive legislators will lob soft questions during testimony	3.05
2	Using tobacco employees to lobby against legislation with the excuse that it threatens their job security	2.38
Legal and economic intimidation		
16	Devoting considerable resources to legal fights	3.46
65	Creating and funding front groups	4.76
46	Ensuring that court battles are fought in favorable jurisdictions	3.81
64	Infiltrating official and de facto regulatory organizations (like ASHRAE)	3.76
58	Filtering documentation through their attorneys in order to hide behind attorney work product [privilege]	3.43
9	Encouraging (or failing to discourage) smuggling as a way to counter tax hikes	3.29
4	Countering tax increases with promotions and cents off	3.10
48	Threatening to withdraw support from credible groups to control [them]	3.05
Usurping the agenda		
42	Developing alliances with retailers, vendors, and the hospitality industry in opposition to public health policies	2.48
40	Usurping the public health process, such as creating their own youth tobacco prevention programs	3.39
22	Avoiding regulatory and legislative interventions by establishing their own programs, such as “We Card”	3.90
66	Promoting a tobacco-control focus that is limited to youth issues	3.33
35	Shifting blame to the victims (e.g., passing youth possession laws to punish youths)	3.24
Creating illusion of support		
54	Using legal and constitutional challenges to undermine federal, state, and local legislative and regulatory initiatives	3.24
81	Using antilobbying legislation to suppress tobacco control advocacy	3.27
68	Flying in cadre of “experts” to fight local/state legislation	4.52
39	Creating the illusion of a protobacco grassroots movement through direct mail database and paid-for petition names	3.57
60	Using international activities to avoid domestic rules on ads, taxation, etc.	3.43
33	Entering false testimony and false data into the public record	3.19
75	Tying states’ MSA money to increases/decreases of smoking prevalence	3.05
59	Using employees and their families to make campaign contributions that are difficult to track	2.95

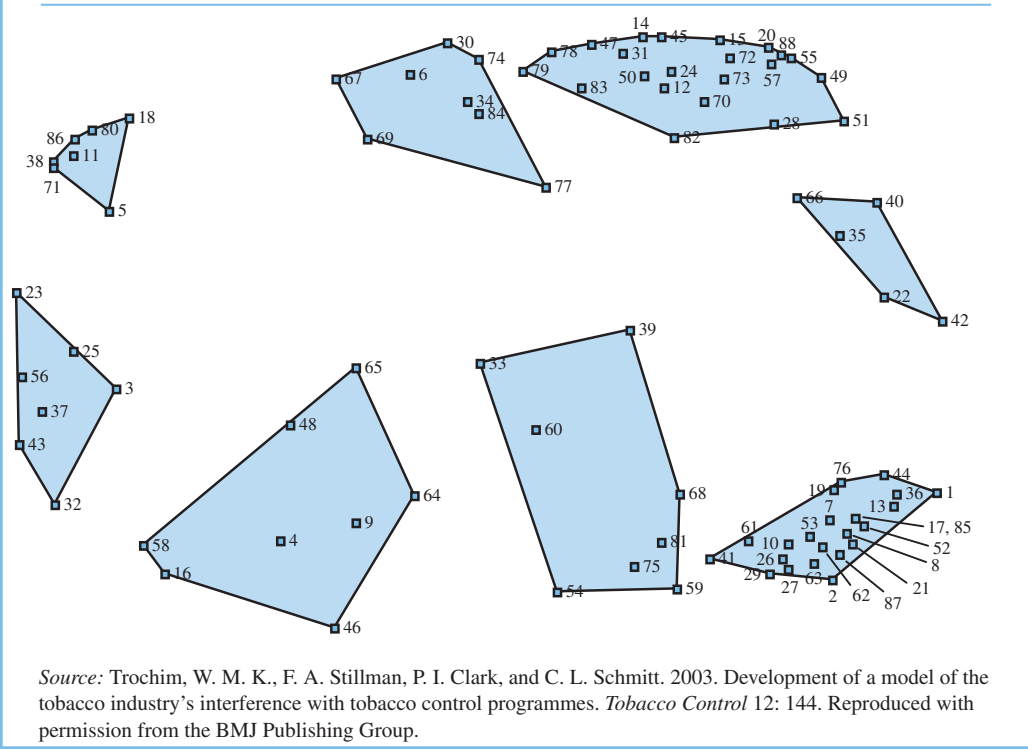
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Table 8.1. (continued)

Item #	Statement	Mean
Harassment		3.26
43	Intimidating opponents with overwhelming resources	4.38
32	Using the courts and threats of legal action to silence opponents	4.19
37	Harassing tobacco control workers via letters, FOIAs, and legal action	3.43
56	Silencing industry insiders	3.19
23	Hassling prominent tobacco control scientists for their advocacy work	3.00
3	Infiltrating tobacco prevention and control groups	2.81
25	Trying to undermine those selling effective cessation products	1.81
Undermining science		3.26
11	Creating doubt about the credibility of science by paying scientists to disseminate protobacco information	3.76
18	Sowing confusion about the meaning of statistical significance and research methods	3.57
38	Creating scientific forums to get protobacco information into the scientific literature	3.33
5	Influencing scientific publication by paying journal editors to write editorials opposing tobacco restrictions	3.10
71	Creating doubt about the credibility of science by paying scientists to provide expert testimony	3.10
80	Creating doubt about the credibility of legitimate science by paying scientists to conduct research	3.05
86	Conducting studies that, by design, cannot achieve a significant result	2.90
Media manipulation		2.91
77	Using advertising dollars to control content of media	3.71
34	Putting own “spin” on the issues by manufacturing information sources	3.43
67	Taking advantage of the “balanced reporting” concept to get equal time for junk science	2.86
69	Ghost writing protobacco articles	2.76
6	Avoiding the key health questions by saying they are not experts and then not agreeing with the experts	2.71
84	Misrepresenting facts in situations where there is no time to verify	2.67
74	Publicly acknowledging the risk of tobacco use, but minimizing the magnitude	2.67
30	Publicizing research into “safe cigarettes”	2.48
Public relations		2.85
12	Using philanthropy to link their public image with positive causes	4.00
28	Using philanthropy to build a constituency of support among credible groups	3.62
73	Diverting attention from the health issues by focusing attention on the economic issues	3.48
51	Distracting attention from the real issues with alternative stances such as accommodation and ventilation	3.38
88	Asserting that restrictions on tobacco could lead to restrictions on other industries and products	3.38
14	Minimizing importance of misdeeds in the past by claiming they’ve changed	3.24
20	Arguing that tobacco control policies are antibusiness	3.19
72	Maintaining that the tobacco industry is of critical importance to the economy	3.19
45	Portraying themselves as “responsible,” “reasonable,” and willing to engage in a “dialogue”	2.90
78	Misrepresenting legal issues to naive reporters and stock analysts	2.86
79	Feeding protobacco information to market analysts who are predisposed to accepting and transmitting it	2.86
15	Representing people as “antismoker” instead of antismoking	2.81
82	Developing protobacco media content, such as videos and press releases	2.67
83	Painting tobacco control activists as extremists	2.67
55	Pretending that the “real” tobacco control agenda is prohibition	2.57
57	Casting tobacco control as a civil rights threat	2.52
49	Portraying tobacco control as a class struggle against poor and minority groups	2.48
24	Providing extensive media training for executives who will be in the public eye	2.43
70	Shifting attention toward lawyers’ monetary gains and away from tobacco litigation	2.38
47	Avoiding losing public debates by overcomplicating simple issues	2.29
31	Blaming it on “fall-guys” (past or rogue employees) when the industry is caught misbehaving	2.00
50	Refusing or avoiding media debates where they think they will do poorly	1.71

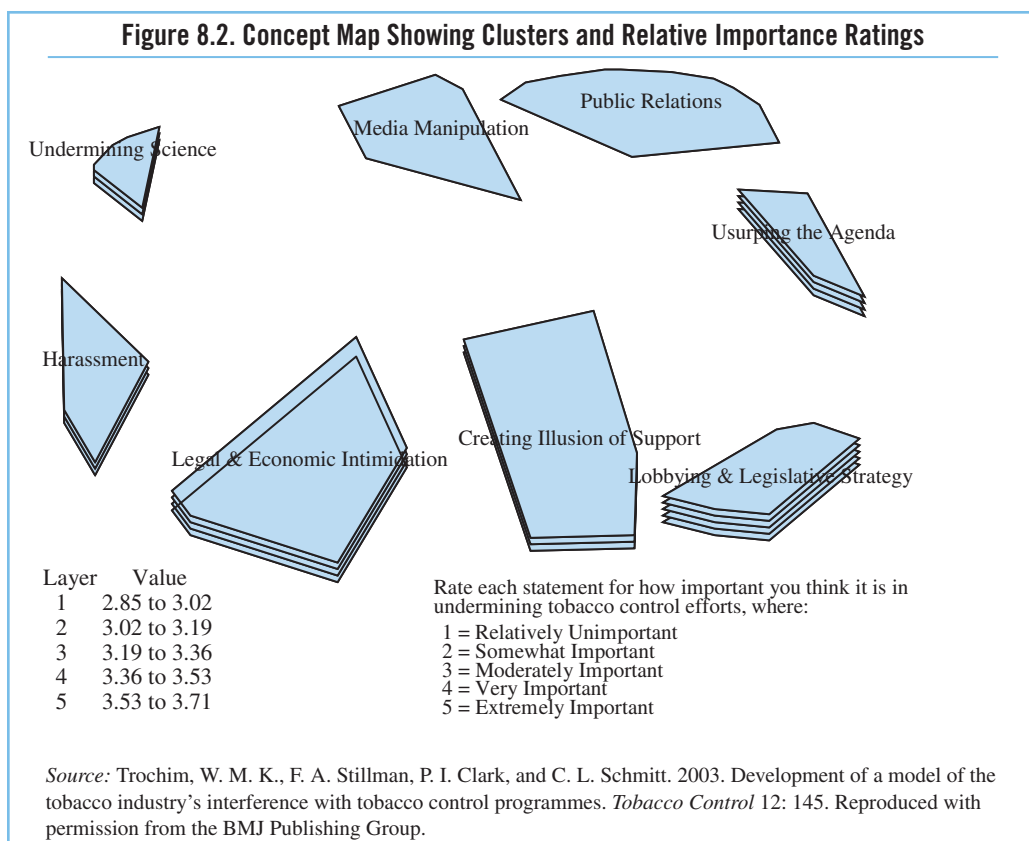
Note: MSA indicates Master Settlement Agreement. ASHRAE indicates American Society of Heating, Refrigerating and Air-Conditioning Engineers. FOIAs indicates requests made under the Freedom of Information Act.

Figure 8.1. Point-cluster Map Showing the Multidimensional Scaling Arrangement of the 88 Statements with the Eight-cluster Solution Superimposed



measures. It is anticipated that a proto-tobacco index might be aggregated from the structural units of the map. For instance, it may make sense to aggregate subindex scores for the clusters “Public Relations and Usurping the Agenda” into a total score that represents “Issue Framing.” Carrying this notion up the hierarchy, one might then aggregate the fourfold index scores that represent the quadrants into an overall index of tobacco industry tactics in a manner analogous to the hierarchical index construction used in the Strength of Tobacco Control index (see chapter 2).

However, additional empirical work is needed to validate the results and to explore the classifications inherent in the map. The next sections of this chapter describe two sources of data used to validate the categories identified in the concept map—a review of the literature covering tobacco industry actions against tobacco control efforts and a review of the tobacco industry documents. These reviews were performed to determine whether the categories of tactics described by concept mapping can also be identified from these sources.

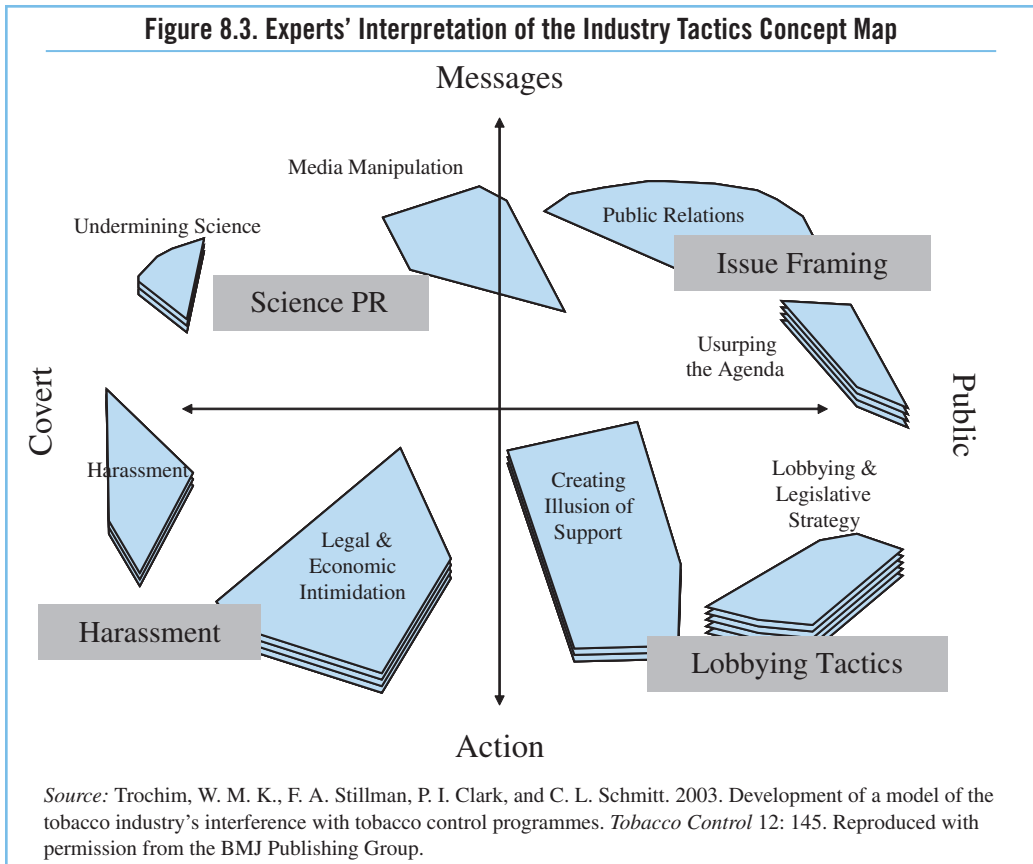
Figure 8.2. Concept Map Showing Clusters and Relative Importance Ratings

Review of the Published Literature on Tobacco Industry Tactics

The concept mapping provided a basis for measuring tobacco industry strategies. Subsequently, the published scientific literature on tobacco industry activities was reviewed to determine whether the tobacco industry actually used these or similar tactics when confronting public health initiatives at the local, state, and national levels and whether the tactics described in the literature could be subsumed under the categorization scheme described by the concept mapping project. While

these eight categories did effectively represent those described in the extant literature, we found no existing source of data from which a valid quantitative measure could be constructed for every state.

The first part of this section provides a brief description of the method used to identify and select articles for inclusion in the review. It subsequently presents articles illustrative of each category of tobacco industry tactic described by the concept mapping analysis. Finally, studies are presented that illustrate that the tobacco industry employed a combination of tactics to counter specific public health initiatives.



Methods

The peer-reviewed literature was searched for articles examining the tactics the tobacco industry has used to oppose tobacco control. A broad search strategy was used to capture articles published from 1955 through October 2001. The search was limited to English-language and human studies. The MEDLINE database was queried with multiple search term combinations with Boolean operators. The general search category *tobacco industry* was combined with a series of search terms related to possible tobacco industry tactics. Terms

included *harassment, public relations, intimidation, illusion, legislat**, lobby**, media, science, undermin**, agenda, support, legal, illegal, econom**, NCI, ASSIST, interfer**, and strategy.*

In an initial screening of the search results, the first screener (KK) identified 173 articles for potential inclusion in the review. Two additional screeners (BF, SB) reviewed the search protocol and list of captured articles for completeness and relevance. The articles were then reviewed for relevance to the question posed, and any clearly irrelevant articles were excluded from further analysis. Fifty-one articles

Table 8.2. Lobbying and Legislative Strategy

Authors	Short description
Begay, Traynor, and Glantz ¹⁴	The industry contributed more to the California legislature from 1985 to 1992 than to the U.S. Congress, most notably in the four years following the 1988 enactment of Proposition 99.
Glantz and Begay ¹⁵	In the 1991–92 California legislative session, there was a positive correlation between tobacco industry campaign contributions and support of industry positions among legislators. From 1988 to 1994, tobacco lobbying expenditures correlated negatively with state tobacco control expenditures.
Moore, Wolfe, Lindes, and Douglas ¹⁶	Federal Election Commission records of personal contributions and those to 10 tobacco political action committees were investigated during the 102nd and 103rd sessions of the U.S. Congress. Money received from the tobacco industry was the best predictor of a proindustry position.
Siegel, Carol, Jordan, Hobart, Schoenmarklin, DuMelle, and Fisher ¹⁷	State preemption laws passed between 1985 and 1995 were reviewed. Three major trends in tobacco industry efforts were identified: preexisting tobacco control bills were amended by industry-friendly legislators, “superpreemption” bills seeking to limit all local tobacco control efforts were promoted, and an attempt was made by the industry to use the Synar amendment as a federal preemption of the enforcement of youth access laws.
Monardi and Glantz ¹⁸	In 1993–94 legislative sessions in California, Colorado, Ohio, Pennsylvania, New Jersey, and Washington State, the relationship between tobacco industry donations to specific legislators and the level of their support for tobacco industry positions was positive. The analysis controlled for personal party affiliation and party control of the legislature.
DiFranza and Rigotti ¹⁹	The tobacco industry attempted to impede implementation and enforcement of youth access laws in Massachusetts. Health department officials concluded that the outcome of these efforts included inadequate budgets allocated for enforcement, retailer-based court disputes over citations, and political pressure over using older youths in compliance checks.

were retained for the review after a consensus of the three screeners determined that those articles were likely to describe tobacco industry tactics.

For the analysis, the articles were categorized by the themes described in the concept map. Articles that were deemed redundant for a particular theme are not included in this discussion.

Results

Lobbying and Legislative Strategy

This first concept map domain describes how contributing funds to political candidates, incumbents, parties, committees, and interest groups allows access and influence over these groups. This construct includes the use of campaign contributions, general

lobbying, and other efforts to affect legislation passage, implementation, and enforcement (see table 8.2).

It is clear from the studies reviewed that the tobacco industry engages in tactics identified as Lobbying and Legislative Strategies. They are able to influence legislation, because their monetary contributions to politicians give them access to the legislative process. The high importance ratings that the concept mapping participants assigned to this strategy's role in undermining tobacco control is supported by the published literature.

Legal and Economic Intimidation and Creating the Illusion of Support

The tobacco industry devotes considerable resources to policy battles and seeks to portray substantial support by the community at large for its positions. This support can exert political pressure on lawmakers, who mistake it for a true grassroots movement.

The two concept map domains Legal and Economic Intimidation and Creating the Illusion of Support are combined here because of shared aspects of tobacco industry association with front groups and engineered constituencies. While the major focus of Legal and Economic Intimidation is *disempowering* groups that promote tobacco control through financing and/or creating adversarial front groups, such as retailer alliances, Creating the Illusion of Support strategies focus on *empowering* groups that support the tobacco industry agenda (see table 8.3).

As the public has become aware and resistant to the tobacco industry's direct

tactics, the industry has employed tactics that minimize their own public exposure. Many of these less direct tactics are those included in the Legal and Economic Intimidation and Creating Illusion of Support constructs.

Usurping the Agenda

This concept map domain encompasses tactics characterized by the tobacco industry's apparent championship of another group's cause. For example, their widely publicized youth smoking prevention programs and support of laws that punish youth for the purchase, use, and possession of tobacco products appear to serve the public health agenda. In reality, however, the tobacco industry's active participation in these issues allows them to control the agenda, rather than be controlled by it, and divert attention from issues they cannot directly address or counter (see table 8.4).

The Usurping the Agenda tactics most frequently identified are the use of industry alliances to present a protobacco position and the creation of youth access programs, where it has been particularly successful. This group of tactics allows the tobacco industry to control the public health agenda instead of being controlled by it.

Harassment

The tobacco industry uses other tactics to frighten and overwhelm opponents. The tactics include threatening to sue or actually suing tobacco control advocates. Alternatively, the industry makes burdensome requests for information under the Freedom of Information Act (FOIA). As a result, people targeted by

Table 8.3. Legal and Economic Intimidation and Creating the Illusion of Support

Authors	Short description
Traynor, Begay, and Glantz ²⁰	During 1991–92 in California, the tobacco industry used front groups and links to restaurant and merchant associations to conceal direct lobbying efforts in local policy debates. These groups monitored legislation and organized local initiative campaigns against tobacco control regulations. Telephone hotlines and public relations firms kept track of local policy developments and organized consumer lobbying efforts.
Ellis, Hobart, and Reed ²¹	In the late 1980s and early 1990s in Contra Costa County, CA, industry associations used direct mailing campaigns, front groups, public relations firms, and lobbying for “smokers’ rights” to create the illusion of a genuine protobacco grassroots movement.

Table 8.4. Usurping the Agenda

Authors	Short description
Bidell, Furlong, Dunn, and Koegler ²²	In Santa Barbara County, CA, the tobacco industry, retailers, and industry associations worked together to attempt to defeat local legislation banning self-service tobacco displays. When the bill passed, those groups worked to delay the enactment and impede the enforcement of the bans.
Ritch and Begay ²³	The tobacco industry made alliances with retailers, vendors, restaurateurs, tavern proprietors, and the general hospitality industry. A trade association advocating protobacco-industry policies claimed that proposed clean indoor air legislation would have negative economic consequences.
DiFranza and Godshall ²⁴	The tobacco industry created a “model” state bill for underage tobacco sales that would undermine enforcement efforts.

Table 8.5. Harassment

Authors	Short description
Aguinaga and Glantz ²⁵	The tobacco industry filed burdensome FOIA requests with public health agencies to slow agency action.
Nicholl ²⁶	The tobacco industry accused tobacco-control advocates and program managers of illegal lobbying to further inflate the perception that the industry position was the public’s position.
Bialous, Fox, and Glantz ²⁷	Managers from the 17 ASSIST states were interviewed about formal complaints from the industry alleging illegal lobbying activities. Managers in ASSIST states that had not been targets of these industry complaints reported limiting their tobacco control interventions because they feared they would also be accused of illegal lobbying.

Note: FOIA indicates Freedom of Information Act.

these tactics may be afraid to pursue an aggressive tobacco control agenda, or an agency may become so overburdened complying with information requests that its employees cannot accomplish their tobacco control duties (see table 8.5).

This tactic not only compels agencies to devote limited resources to a response, but it also creates an atmosphere in which all tobacco control managers, even those who have never been the direct target of these tactics, must become hypervigilant about their involvement in any policy interventions.

Undermining Science

The tobacco industry has made extraordinary efforts to confuse the public about the science of the health risks of smoking and environmental tobacco smoke. While industry executives and scientists have known about and accepted the scientific evidence about health risks from tobacco use and secondhand smoke for decades,²⁸ they have actively resisted the public disclosure of this information. In addition, they have initiated and supported a research agenda designed to counter legitimate negative findings about tobacco's health effects. Outcomes from this research agenda are, in turn, finely tuned to minimize or negate negative findings and are released to the public by forums allegedly unrelated to the industry. Tobacco company efforts to control the focus of tobacco research, counter already-published negative research, and actively work to confuse the public are well represented in the industry documents and subsequently in the published literature (see table 8.6).

The tobacco industry's use of tactics under this domain is well documented. These tactics included designing studies to yield results that support tobacco industry positions, paying scientists to perform these studies, and creating quasi-legitimate forums to publicize those results. Lawyers with an eye to potential litigation at every level controlled research agendas. The tobacco industry successfully kept information from the public for many years. When this information became public knowledge, they attacked its veracity.

Media Manipulation and Public Relations

The Media Manipulation and Public Relations domains use similar tactics and will therefore be discussed together. The primary difference is that media manipulation tactics are more likely to be indirect and public relations tactics are more likely to be direct. For example, media manipulation tactics include situations in which the tobacco industry does not pay for positive media attention but can direct messages by threatening to withhold advertising revenues from a magazine that runs antitobacco stories. Public relationships tactics, in comparison, distract the public from health issues by focusing attention on alternative issues. Threats to the tobacco industry are reframed as threats to the economy of the state or nation, other businesses, or minority citizens. The common theme that connects the two domains is that they both involve presenting a manufactured image of the tobacco industry to the public (see table 8.7).

Media manipulation and public relations tactics are well used by the tobacco

Table 8.6. Undermining Science

Authors	Short description
Glantz, Barnes, Bero, Hanauer, and Slade ²⁹	In the mid-1970s, Brown & Williamson scientists determined that secondhand smoke causes irritation, contains toxins, and is carcinogenic, but those scientists did not release the information. They also confirmed that nicotine is addictive and that tobacco use causes disease. Company scientists were not allowed to pursue research that might make the company subject to litigation.
Bero, Barnes, Hanauer, Slade, and Glantz ³⁰	Brown & Williamson funded external research projects for their potential public relations value, for potential use in undermining legitimate research, or to support industry objectives relating to such areas as ventilation and accommodation.
Barnes, Hanauer, Slade, Bero, and Glantz ³¹	Brown & Williamson funded research intended to prove that environmental tobacco smoke is not harmful.
Hanauer, Slade, Barnes, Bero, and Glantz ³²	Internal research by Brown & Williamson that would have been disadvantageous in liability lawsuits was kept confidential. Internal documentation of practices and research was reviewed by attorneys in order to invoke attorney work product privilege in discovery.
Barnes and Bero ³³	The Center for Indoor Air Research was established and funded by three U.S. tobacco companies to research indoor air, including secondhand smoke.
Hirschhorn ³⁴	Programs to fund and disseminate research intended to prove that secondhand smoke is safe were initiated by Philip Morris, R.J. Reynolds, and British American Tobacco in Germany, influencing policy in that nation and elsewhere in Europe.
Ong and Glantz ³⁵	Philip Morris developed research and dissemination strategies to combat the results of a study conducted by the International Agency for Research on Cancer that connected secondhand smoke with lung cancer.
Drope and Chapman ³⁶	U.S. tobacco companies retained scientists to create and publicize doubt about the health risks of secondhand smoke. Scientists were organized and forums for dissemination were sponsored. Unfavorable results were kept from public release, and all studies contained contractual clauses requiring attorney review.
Muggli, Forster, Hurt, and Repace ³⁷	Studies were explicitly designed to refute the Environmental Protection Agency report connecting secondhand smoke and lung cancer. Resulting information was disseminated at industry-sponsored forums and in popular print media.
Ong and Glantz ³⁸	Philip Morris used the concept of “sound science” to attack the Environmental Protection Agency report implicating secondhand smoke in lung cancer. It also funded research to prove that secondhand smoke is not harmful.

industry. With these tactics, the industry shapes public opinion. Public opinion, in turn, affects whether legislation favorable to the tobacco industry is enacted and enforced.

Case Studies that Examine Tobacco Industry Tactics

The research reviewed above corresponds largely, though not precisely, to the concept map headings. The extant

Table 8.7. Media Manipulation and Public Relations

Authors	Short description
Richards, Tye, and Fischer ³⁹	A disparity was found between the tobacco industry's pronouncements and practices regarding advertising. As broadcast advertising was restricted to reduce youth consumption, funds were moved to billboard and print advertisements. These advertisements also appeared to target youths despite industry statements to the contrary.
Hurt and Robertson ⁴⁰	The industry marketed low-nicotine and low-tar cigarettes as healthier for smokers than traditional cigarettes despite evidence to the contrary. As a result, the public became confused about the overall dangers of tobacco use.
Kennedy and Bero ⁴¹	Newspapers and periodicals in 1981–94 characterized the health effects of secondhand smoke as controversial despite few research citations supporting this claim. A positive correlation was found between the amount of tobacco advertisements in a given magazine and the likelihood that the magazine would frame tobacco issues as controversial.
Mangurian and Bero ⁴²	Unfavorable media coverage of a smoke-free workplace ordinance increased after speakers supporting the industry spoke at public hearings.
Magzamen, Charlesworth, and Glantz ⁴³	Disproportionate coverage of industry-promoted topics, including economic cost/benefit analyses, ventilation utility, and smokers' rights, was found in news and opinion pieces on passage of a smoke-free workplace law in California in 1997–98.

literature also includes case studies that focus on tobacco industry responses to particular legislative or regulatory efforts. These studies cannot be sorted and reviewed under separate concept map headings because each one describes multiple tactics the industry used to achieve their goals. These efforts are therefore grouped loosely under two categories: constellations of tactics that the industry uses to oppose a specific public health program and constellations of tactics the industry uses at the state and local levels to oppose tobacco control (see table 8.8).

General State-level Industry Behavior

Four papers have examined tobacco industry behavior at the state level and one paper examined industry behavior at the local level. These studies provide

a general overview of the tactics the industry employs as it faces increasing challenges in the business environment. These reviews are based on industry documents, public records, and interviews (see table 8.9).

Taken together, these case studies show that the tobacco industry relies on direct and indirect political pressure to counter tobacco control efforts at the state and local levels. Direct pressure is exerted through lobbying efforts, and access to politicians is ensured through generous political contributions. Indirect pressure is applied through the manipulation of public opinion. A combination of strategies, including legislative and legal intimidation, usurping the agenda, creating an illusion of support, and harassment, harness other individuals and groups to present protobacco

Table 8.8. Industry Tactics to Oppose Specific Public Health Initiatives

Authors	Short description
Samuels, Begay, Hazan, and Glantz ⁴⁴	In response to Pittsburgh’s proposed health policies in 1987, the tobacco industry formed alliances with business and labor organizations to oppose a proposed ordinance that would restrict smoking in some restaurants, workplaces, and public areas. In addition, a public debate on accommodation, spearheaded by Philip Morris, served to distract attention from the public health issues of clean indoor air.
MacDonald and Glantz ⁴⁵ (see also Magzamen and Glantz ⁴⁶)	The tobacco industry relied on multiple tactics as it opposed the smoking restrictions in California Assembly Bill 13 and its subsequent proposed extension to bars, while supporting preemption amendments and weaker alternative legislation.
Goldman and Glantz ⁴⁷	The tobacco industry used multiple strategies to oppose Oregon’s Measure 44 in 1996.
Koh ⁴⁸	The tobacco industry used multiple strategies to oppose the 1992 Massachusetts Question 1 tobacco tax initiative.
Traynor and Glantz ⁴⁹	The tobacco industry used a variety of tactics, including front groups, legal challenges, government lobbying, and media saturation, to halt, delay, or subvert passage of California’s Proposition 99 in 1989.

Table 8.9. Tobacco Industry Behavior at State and Local Levels

Authors	Short description
Nicholl ²⁶	This study identifies tobacco industry tactics in eight statewide tobacco tax initiative campaigns (California, Massachusetts, Arizona, Oregon, Montana, Nebraska, Arkansas, and Colorado). These tactics were characterized by the ability to apply direct and indirect pressure on the legislature through the use of front groups, manufactured grassroots constituents, and media saturation. Other tactics, such as hiring professional signature gatherers at higher than market wages, were used to defeat petitioning on the part of tobacco control coalitions.
Jacobson, Wasserman, and Raube ⁵⁰ ; Jacobson and Wasserman ⁵¹	The tobacco industry favored preemption clauses in six states (Arizona, Florida, Illinois, Minnesota, New York, and Texas), in part because they could weaken coalition support for the proposed legislation. Monetary contributions to politicians, combined with direct lobbying efforts, promoted the tobacco industry’s interests in the legislature. After tobacco control legislation was passed, the industry continued its efforts to impede implementation and enforcement of the laws.
Givel and Glantz ⁵²	In the 1990s, tobacco industry tactics included contributions and gift giving to legislators, creation and maintenance of front groups, affiliation with business associations and smokers’ rights groups, and accusations of illegal lobbying directed at public health workers. Statewide preemption clauses were often the tobacco industry’s objective, and the industry focused lobbying efforts and financial contributions on influencing committee processes and vote scheduling.
Samuels and Glantz ⁵³	The industry used multiple tactics against tobacco control ordinances as policy debates moved to the municipal level in the late 1980s.

arguments using public relations tactics. At the same time that political pressure is being applied, other lobbying and legislative strategies, such as clauses including preemption and support for smokers' rights, are employed to weaken coalition support for proposed legislation and make that legislation more congruent with tobacco industry goals. These tactics continue during the implementation and enforcement phase of any legislation adopted.

Gaps in the Literature

The gaps in the literature researching tobacco industry tactics are mostly describable via the concept map. Some map clusters, such as Lobbying and Legislative Strategy and Undermining Science, are well represented in the literature. Others, such as Media Manipulation, are not. Generally, tactics that are either quantifiable via dollars spent or well described within the context of a particular policy debate are better represented. In contrast, tactics that can be inferred from a source, but not necessarily documented, are less well represented. For example, when manufacturing information sources or using advertising dollars to control content of the media, the tobacco industry takes great pains to hide their footprints. Likewise, tactics that are more diffuse and tend to be standard business practices, like front groups, mobilization of grassroots support, or public-relations-aided issue framing, are not as well researched. There are disparities within the clusters as well. While the lobbying and legislative efforts of the industry have been

well studied, particularly in the area of state initiative campaigns, research focusing on local or national debates or campaigns is needed. In addition, as the current literature suggests, the industry continues to develop new strategies and combinations of strategies, and these should be monitored.

Lessons from the Literature Review

The review of the published scientific literature verifies that the tobacco industry uses tactics to disrupt public health initiatives. This review further validates the inclusion of protobacco forces in the ASSIST evaluation design and for the use of the concept map as a basis for this metric. However, the review does not identify a data set that would easily lead to the development of an index. The primary data sources used in the underlying literature, such as public records and interviews, provide valid information for case studies but pose challenges to a systematic and reliable data-collection effort. For example, since states have different reporting requirements for lobbyists and lobbying expenses, state-level comparisons on this measure are not possible, although these data could be used to track these tobacco-related activities within a state. Similarly, corporate advertising expenditures are not reported in sufficient detail to inform an index. In addition, some of the described tactics, particularly those that are more implicit or covert (such as attempting to confuse and reframe policy debates and construct the illusion of widespread popular support), are by definition difficult to document, measure, and include in a metric.

Quantifying Tobacco Industry Policy-related Activity

While tobacco industry efforts range from advocacy to advertising and promotion, policy-related activities represent an important area for metrics of protobacco activities. According to Stanton A. Glantz, University of California professor and co-author of *The Tobacco War*^a and *The Cigarette Papers*,^b channels for the tobacco industry to exercise influence over policy-making efforts include the following:^c

Campaign contributions to individual politicians. Relationships between campaign contributions and legislative behavior have been demonstrated at both the state and federal levels.^{d,e,f} While public disclosure is generally required for campaign contributions, accessibility of these data varies from state to state, and in the wake of reduced contribution limits, many contributions originate from employees and business partners who cannot be directly traced to tobacco interests.

Campaign contributions to political parties and “friends” committees. These contributions are frequently exempt from contribution limits and make it more difficult to track the flow of money and its concomitant influence. Such contributions also benefit legislators while not putting them on record as directly accepting tobacco industry money.

Lobbying. Tobacco companies have conducted lobbying efforts through numerous trade organizations as well as their own individual efforts. Firms have also channeled lobbying activities through secondary organizations such as nontobacco subsidiaries and supported affinity groups.^e Tracking this activity is prone to much of the same state-to-state variability as tracking campaign contributions, and secondary lobbying poses additional difficulties for meaningful data collection.

Referenda and initiative campaigns. A common legal strategy of tobacco companies is to support a *referendum* opposing tobacco control legislation in those states that allow citizen-initiated challenges to passed legislation. Similarly, tobacco companies often oppose citizen-based *initiatives* to propose and vote on laws outside of normal legislative channels, a mechanism commonly used by tobacco control advocates. These efforts are frequently unsuccessful.^{g,h,i,j,k,l,m,n,o}

“Smokers’ rights,” “accommodation,” and related public relations campaigns. Indirect policy-related efforts by the tobacco industry include (1) forming “smokers’ rights” groups, often organized through public relations firms; (2) forming coalitions with the hospitality and restaurant industry aimed at accommodating smokers and challenging smoke-free ordinances; and (3) disseminating industry-developed “educational” programs designed to supplant public health efforts in schools.^{h,i,p,q,r}

Litigation. The tobacco industry frequently engages in legal challenges to tobacco control measures and their advocates, particularly at the local level, often with “concerned citizens” rather than the tobacco companies themselves as plaintiffs.^{k,s,t}

While Glantz^c echoes the view of the authors of this chapter that much of these data may be difficult or impossible to accurately quantify, particularly given state variations and the quality of data sources, a potential future direction lies in *indirect* measures of these activities.^{d,e,n,u,v}

- Because disclosure requirements have remained relatively constant, the potential exists to track *changes* in industry activity over time, using existing disclosure channels—particularly regarding within-state behavior.
- Several studies of individual states have shown a relationship between industry expenditures and the efforts of tobacco control activists, providing an important covariate relationship that should be tracked and measured over time.
- There is a consistent relationship between campaign contribution levels and legislative behavior—and legislative behavior can be measured as a matter of public record. To quantify the records of specific legislators, Glantz^c has used a “tobacco policy score,” representing a 0 through 10 ranking of the level of protobacco legislative activity.

These factors all point toward the possibility of quantifying tobacco industry political activity based on metrics, which, in turn, may ultimately represent indicators of the many tacit activities that currently elude direct measurement.

^aGlantz, S. A., and E. D. Balbach. 2000. *The tobacco war*. Los Angeles: Univ. of California Press.

^bGlantz, S. A., J. Slade, L. A. Bero, P. Hanauer, and D. E. Barnes. 1996. *The cigarette papers*. Los Angeles: Univ. of California Press.

^cGlantz, S. A. 2004. Measuring tobacco industry policy-related activity (Report to the National Cancer Institute). Internal document, ASSIST Coordinating Center, Rockville, MD.

^dGlantz, S. A., and M. E. Begay. 1994. Tobacco industry campaign contributions are affecting tobacco control policymaking in California. *Journal of the American Medical Association* 272 (15): 1176–82.

^eMonardi, F., and S. A. Glantz. 1998. Are tobacco industry campaign contributions influencing state legislative behavior? *American Journal of Public Health* 88 (6): 918–23.

^fMoore, S., S. M. Wolfe, D. Lindes, and C. E. Douglas. 1994. Epidemiology of failed tobacco control legislation. *Journal of the American Medical Association* 272 (15): 1171–75.

^gHanauer, P. 1985. Proposition P: Anatomy of a nonsmokers' rights ordinance. *New York State Journal of Medicine* 85 (7): 369–74.

^hSamuels, B., and S. A. Glantz. 1991. The politics of local tobacco control. *Journal of the American Medical Association* 266 (15): 2110–17.

ⁱTraynor, M. P., M. E. Begay, and S. A. Glantz. 1993. New tobacco industry strategy to prevent local tobacco control. *Journal of the American Medical Association* 270 (4): 479–86.

^jTraynor, M. P., and S. A. Glantz. 1996. California's tobacco tax initiative: The development and passage of Proposition 99. *Journal of Health Politics, Policy and Law* 21 (3): 543–85.

^kMonardi, F., and S. A. Glantz. 1996. *Tobacco industry political activity and tobacco control policy-making in Washington: 1983–1996* (Center for Tobacco Control Research and Education, Report WA1996). San Francisco: University of California San Francisco, Institute for Health Policy Studies. <http://www.library.ucsf.edu/tobacco/wa>.

^lAguinaga Bialous, S., and S. A. Glantz. 1997. *Tobacco control in Arizona, 1973–1997* (Center for Tobacco Control Research and Education, Report AZ1997). San Francisco: University of California at San Francisco, Institute for Health Policy Studies. <http://www.library.ucsf.edu/tobacco/az>.

^mGoldman, L. K., and S. A. Glantz. 1998. *Industry political expenditures and tobacco policy making in Oregon: 1985–1997* (Center for Tobacco Control Research and Education, Report OR1998). San Francisco: University of California at San Francisco, Institute for Health Policy Studies. <http://www.library.ucsf.edu/tobacco/or>.

ⁿBegay, M. E., and S. A. Glantz. 1997. Question 1 tobacco education expenditures in Massachusetts. *Tobacco Control* 6 (3): 213–18.

^oKoh, H. K. 1996. An analysis of the successful 1992 Massachusetts tobacco tax initiative. *Tobacco Control* 5 (3): 220–25.

^pSamuels, B. E., M. E. Begay, A. R. Hazan, and S. A. Glantz. 1992. Philip Morris's failed experiment in Pittsburgh. *Journal of Health Politics, Policy and Law* 17 (2): 329–51.

^qCardador, M., A. R. Hazan, and S. A. Glantz. 1995. Tobacco industry smokers' rights publications: A content analysis. *American Journal of Public Health* 85 (9): 1212–17.

^rStauber, J., and S. Rampton. 1995. *Toxic sludge is good for you*. Monroe, ME: Common Courage Press.

^sMonardi, F., A. O'Neill, and S. A. Glantz. 1996. *Tobacco industry political activity and tobacco control policymaking in Colorado: 1979–1995* (Center for Tobacco Control Research and Education, Report CO1996). San Francisco: University of California San Francisco, Institute for Health Policy Studies. <http://repositories.cdlib.org/ctcre/tpmus/CO1996>.

^tMonardi, F. M., and S. A. Glantz. 1997. *Tobacco industry political activity and tobacco control policymaking in New Jersey: 1982–1995* (Center for Tobacco Control Research and Education, Report

NJ1997). San Francisco: University of California San Francisco, Institute for Health Policy Studies. <http://galen.library.ucsf.edu/tobacco/nj>.

^uAguinaga, S., H. MacDonald, M. Traynor, M. E. Begay, and S. A. Glantz. 1995. *Undermining popular government: Tobacco industry political expenditures in California 1993–1994* (Center for Tobacco Control Research and Education, Report CA1995). San Francisco: University of California at San Francisco, Institute for Health Policy Studies. <http://repositories.cdlib.org/ctcre/tcpmus/CA1995>.

^vBegay, M. E., M. Traynor, and S. A. Glantz. 1993. The tobacco industry, state politics, and tobacco education in California. *American Journal of Public Health* 83 (9): 1214–21.

Review of Tobacco Industry Documents

In this section, tobacco industry documents are presented to determine whether the specific tactics that the tobacco industry used to counter ASSIST can be organized by the concept mapping framework. Millions of pages of previously confidential industry documents came into the public domain with the settlement of the lawsuit filed by the state of Minnesota against several tobacco companies⁵⁴(Bates no. 106035476/5504) and with the Master Settlement Agreement in 1998 between 46 state attorneys general and the tobacco companies.⁵⁵ Analyses of these documents have provided researchers with a better understanding of tobacco industry goals and strategies. Because of the breadth of tobacco industry tactics and the industry's particular focus on ASSIST, unique searches were conducted rather than relying solely on the documents described in the peer-reviewed literature.

Since the end of the data collection for this chapter, White and Bero⁵⁶ published a comprehensive analysis of internal tobacco industry documents related to countering ASSIST. Their findings, although presented under a different organizational framework, confirmed that the

tobacco industry perceived ASSIST as a threat and developed coordinated efforts on many fronts to minimize the impact of ASSIST, both in the states involved in the project and in non-ASSIST states (to avoid a domino effect of tobacco control policies). The strategies used by the tobacco industry had been previously used, together and separately, in other industry attempts to derail public health efforts. White and Bero reached the following conclusions:

[The tobacco industry] coordinated resources to aggressively monitor, audit, and infiltrate ASSIST coalitions; pursue legal actions; preempt local tobacco control initiatives; generate negative publicity about ASSIST; and use its political and other allies to attack ASSIST at every level of government. Furthermore, the tobacco industry attempted to hide its efforts by working through third parties.⁵⁶(p246)

This section discusses many of these tactics in more detail and places them within the concept mapping framework.

Methods for Document Search and Analysis

Tobacco industry documents were located via electronic searches of publicly available collections on the Internet, including tobacco industry Web sites

(for example, www.tobaccoarchives.com). The documents were accessed between September 2001 and July 2002. The search strategy was to progress from broad searches to narrow ones; for example, an initial search with a broad term, such as NCI, was narrowed by adding another term to the search string (for example, NCI & ASSIST). Search terms included *NCI*, *ASSIST*, the names of the ASSIST states, and a variety of combinations. Other search terms related to theoretically derived tactics (*lobby***, *allies*, *alliances*, *strategi***, *tactic***, *budget*, *campaign*, *taxation*, *public relations*, *smokers' rights*, *legislat***, *FOIA*, *media*) were used separately and in combination with the above terms. Additional searches were conducted for the names of key players and organizations identified in initial searches.

Documents were selected for detailed review if they met one of two criteria: relevance for overall tobacco industry strategy or relevance to any state-specific strategy, mainly but not exclusively ASSIST states. Because the goal of the analysis was to identify tactics generally, documents were not excluded simply because they addressed non-ASSIST states. The search and selection focused on documents dated from 1987 and later, with a few exceptions (e.g., earlier documents that were used for historical context). Documents were excluded that were exact duplicates and copies of documents that were obtained by the tobacco industry through FOIA requests from state health departments or the National Cancer Institute (NCI). Most

of the documents retrieved came from either Philip Morris or the now extinct Tobacco Institute.

Efforts were made to identify the most significant documents as determined by the closeness of the match to the search items. The sheer volume of documents made it unfeasible to review all documents that mentioned ASSIST, and the fact that the documents were treated as exemplars made it unnecessary. Since the goal was not to have a comprehensive review of how the industry countered ASSIST but to identify potential constructs for measurement, omissions were not problematic for the analysis. The difficulties in searching the documents and the limitations within the dataset have been well documented.⁵⁷ Nonetheless, the documents provide public health professionals with insights into the processes of this industry and its strategies to preempt or counter tobacco control efforts. These insights may assist with the efforts to define a construct of tobacco industry tactics.

Results

From the documents reviewed, it was concluded that many of the tobacco industry strategies identified through the concept mapping analysis and in the extant literature were used to counter tobacco control generally and to counter ASSIST specifically. As in the previous section, the tobacco industry efforts identified are organized by the same categories identified in the concept mapping analysis and subsequently used to organize the literature review.

Lobbying and Legislative Strategy

The documents provide a vast amount of evidence of the industry's lobbying and legislative strategies, both before and after the creation of ASSIST.

A 1988 Tobacco Institute presentation describes successful lobbying efforts at the local level:

First, our efforts to repeal, modify and roll back existing legislation. ... The city of Aurora, CO, is in the final stages of repealing workplace smoking restrictions enacted 2 years ago ... Success was achieved through a program involving the local lobbyists, field staff and the business community. ... Anchorage, Alaska presents an opportunity for us to roll back a total smoking ban in city buildings imposed in early 1987. ... So, by conditioning the entire political, legislative and public climate in Anchorage, we may be successful in rolling back the current ordinance. [emphasis in original]⁵⁸(Bates no. TI01770261, TI01770262, TI01770263)

Another activity in the legislative tactics was to use company employees as lobbying agents, as described in this Brown & Williamson letter to its employees urging them to become involved in legislative issues at the local level:

we are asking you to become a monitor of tobacco issues and help prevent your local governmental jurisdictions from implementing restrictive regulations that would result in lost sales and profits. We are asking you to become the industry's "eyes and ears" by monitoring your boards of health and town councils. We need you to watch for upcoming

public hearings or any activity related to tobacco regulation. The sooner we hear about a proposed regulation, the sooner we can mobilize a grassroots effort to protect the industry. As stated, we support efforts to keep tobacco out of the hands of children, but the proposals being offered in New Jersey are unreasonable. ... To combat the growing number of local government tobacco regulations, we need you to urge your local customers to get involved. ... [Urge them] to attend public meetings and voice their opposition.⁵⁹(Bates no. 640572304-2305)

Another 1988 document gives an example of the strategy to introduce tobacco industry-friendly legislation that supersedes public health efforts:

The second approach is that of ventilation ... or IAQ [Indoor Air Quality] legislation that you have heard about for some time. ... Ventilation legislation should, in many cases, make smoking restrictions redundant. Beverly Hills, for instance, was the first test of the ventilation approach. You will recall that the city's total ban on restaurant smoking was modified to accommodate smokers and nonsmokers.

The third and final approach of the legislative program is smokers' rights legislation... our experience is beginning to suggest that there is a growing perception among smokers ... and some non-smokers ... that the anti-tobacco zealots have gone too far ... Language in bills being considered right now in New York and Pennsylvania would do just that [ensure fair treatment of smokers in society].⁵⁸(Bates no. TI01770265-0266, TI01770268-0269)

A 1988 Tobacco Institute document presents another tobacco industry legislative strategy—to support legislation that will benefit the industry in an indirect manner:

Clearly, the most intriguing work this year on the advertising front comes to us from Massachusetts and the Boston area MBTA. As you recall, tobacco advertising was banned from transit facilities last year. ... This year, we have worked to change that situation in a roundabout manner. We have offered a measure that requires that the MBTA to [*sic*] maximize advertising revenues from all legal sources and channel those funds to help the elderly and handicapped. This “white hat” proposal would supercede [*sic*] the ban on tobacco advertising and, in theory at least, require the MBTA to use all legal sources for this worthwhile project ... [added handwritten note] including tobacco advertising.⁶⁰(Bates no. T10K0019093)

To stop the increasing number of clean indoor air laws and regulations passing throughout the country, Philip Morris (PM) created the Accommodation program as a preemptive measure, since they knew that smoke-free environments lead to a decrease in cigarette consumption. Preemption is described in this presentation by Philip Morris’s Tina Walls:

Today we want to discuss one of PM USA’s most important priorities for 1994 and 1995—accommodation/pre-emption. Our goal, simply stated, is to see some form of accommodation/pre-emption legislation passed in all 50 states. The achievement of universal accommodation/pre-emption is imperative ... if our consumers

have fewer opportunities to enjoy our products, they will use them less frequently and the result will be an adverse impact on our bottom line.⁶¹(Bates no. 2041183752)

A 1992 letter from Spearman Management, Inc., to the Tobacco Institute provides an example of the tobacco industry’s contributions to legislators:

I am quite distressed at a telephone call that I received the other day from former Florida State Senator Lincoln Diaz-Balart, who was just elected to the U.S. House of Representatives, and his brother Mario, who is a state representative here and is running a highly successful campaign for the Senate. ... Lincoln has been a great friend to our issues throughout his career in the Florida Legislature. He NEVER has voted against us. Lincoln met with the Tobacco Institute’s Washington lobbyists ... asking for the financial support. ... Lincoln now advises us that he did not receive a single contribution from the tobacco industry during his campaign. ... This is especially distressing to me because of the message it sends to his brother and the entire Cuban Caucus, who we always have counted on as a block vote for our key issues. ... At a time when our issues increasingly are coming under fire ... [we] cannot afford to alienate any of our friends.⁶²(Bates no. TIFL0066675-6676)

The documents also support the fact that the tobacco industry intended to use lobbying tactics specifically against ASSIST. A 1990 R.J. Reynolds letter discussed North Carolina’s intention to apply for an ASSIST contract and the industry’s early reactions to that:

A task force ... is in the final stages of drafting an application for grant money. Governor Martin has talked with the Department Secretary about the grant application and they are keeping it very low key. ... the Governor felt that North Carolina might be able to divert some of these funds from other states and use them for more constructive purposes like infant mortality studies. The Tobacco Institute, Philip Morris and RJR have done nothing to influence the state's decision on applying for NCI funds. Everyone has viewed this as a no-win situation. ... I recommend that we continue to monitor the grant drafting process and urge Governor Martin to stay closely in touch with the situation. Further assessment will need to be made if and when the proposal is funded.⁶³(Bates no. 507720040-0041)

A 1991 R.J. Reynolds memorandum presents some "potential courses of action" to address the ASSIST program at both the federal and state levels:

We will continue monitoring ASSIST activity in the 17 states selected for initial participation. ... Potential courses of action being studied to manage the situation include:

- Restrict or limit how the funds are used through the state appropriations process and contacts with executive branch officials. ...
- In states where legislatures have or are considering the use of state funds for tobacco counter-advertising, make key legislative and executive branch officials aware that federal funds are already being used for that purpose. ...
- Work with the tobacco-land Congressional delegation to eliminate ASSIST funds in future appropriation

bills; alternatively, seek restrictions on how the funds can be used. ...⁶⁴(Bates no. 507770176)

In addition, a 1995 Lorillard letter asks employees to join in counter-ASSIST measures:

Coalitions throughout these [ASSIST] states, funded with your tax dollar, are working to put us out of business. ... The purpose of this letter is to ask you to join me and the rest of the Wisconsin Sales team in telling our elected officials that we do not want our tax dollars funding programs like ASSIST.⁶⁵(Bates no. 94561863)

[The letter, which apparently had attachments, was also forwarded to Lorillard employees in NJ]:⁶⁶(Bates no. 94561862)

The time is now to support the industry that supports you and your family!⁶⁷(Bates no. 94549615)

Legal and Economic Intimidation

The tactics under this cluster include tobacco industry activities to use its legal and financial power to prevent and oppose the adoption of tobacco control measures at the policy level. This cluster includes the funding of front groups to defend the industry's interests, threats and filing of legal suits, and infiltrating and influencing through regulatory and semi-regulatory bodies at the national and state level in order to promote industry-friendly recommendations, guidelines, and policies. The cluster also includes the promotion of smokers' rights legislation and measures. A 1988 Tobacco Institute presentation, when addressing some of the strategies

the industry was to use for promoting ventilation for the purpose of avoiding public smoking restrictions, states that

In Maryland and Connecticut, we will have opportunities ... to explore another angle in the ventilation issue ... to get experts appointed to IAQ commissions ... Recommendations from these groups are often translated into legislative proposals. So it is important to be included at the table.⁵⁸(Bates no. TI01770267)

A 1988 Tobacco Institute memorandum states that among several new strategies of the public smoking programs is

a more aggressive legal program to establish the precedent to protect smokers' rights, to act as a deterrent to smoker discrimination, and to brief representatives from organized labor and minority bar associations on smokers' rights issues.⁶⁸(Bates no. 2021195610)

The creation and funding of smokers' rights groups is described in a 1989 Tobacco Institute document:

... not all smokers appear willing to defend smokers' rights. The industry is held responsible for projects it funds. Therefore, words spoken or written by sponsored smokers' rights groups must be consistent with industry positions. ... [Strategies, goals, and tactics] Encourage aggressive and efficient operation of smokers' rights groups in states with most significant anti-tobacco activity, to augment efforts to motivate individual smokers. ... Provide financial, technical and legal support to each group to develop their own packets of information on specific smokers' rights issues.⁶⁹(Bates no. TIMN0366820-6821)

A Tobacco Institute 1995 review discusses several legislative issues of that year as well as some regulatory challenges faced by the industry and how the industry attempted to counter the progress of the Occupational Safety and Health Administration's (OSHA) proposed regulation on indoor smoking:

Six months of public hearings on OSHA's proposed smoking ban and indoor air quality regulation finally closed in March 1995. In these hearings, the Institute's representatives ensured that scientific evidence on the issues of environmental tobacco smoke was fully presented, that unfounded assertions were questioned, and that the perspectives of the businesses being regulated by OSHA were brought [*sic*] to the forefront.

Industry action did not end with the hearing, but instead focused on written submissions, responses and legal analyses. The Institute will ensure that the best available information is presented to OSHA as the hearing record is compiled and a course of action determined by the agency. The Institute continues to assist Members of Congress in their attempts to present information at OSHA. ... [On the FDA proposal to regulate tobacco] Preparing long before the actual issuance of the rulemaking, the Institute and industry allies were poised and armed with legal challenges to FDA jurisdiction, and lawsuits were filed even before the FDA's regulatory language was printed in the Federal Register. The response from Congress was close behind. ... The rulemaking process for both the FDA and OSHA will enter a new stage in January 1996,

when comment periods close on both proposed regulations. The Institute will be ready.⁷⁰(Bates no. 88028786–8787)

The documents show that the tactics categorized under this domain were also brought to bear against ASSIST. A 1991 document describes how the industry intended to use its financial and legal power to counter the ASSIST program:

- State Activities' regional staff will include plans to counter use of ASSIST funds for legislative activities within their planning for other administrative challenges stemming from EPA and OSHA activity on environmental tobacco smoke.
- Such plans may include limiting state health department's authority to fund community coalitions which pursue adoption of legislation or regulations.
- Such plans may also include limiting state funding of anti-smoking programs by amounts received under federal program.⁷¹(Bates no. 512715489)

Threats of lawsuits are also another consideration. A 1991 Tobacco Institute memorandum discussing the issue of state initiatives states:

[For Massachusetts] Our counsel is recommending that we proceed with a lawsuit aimed at declaring the initiative unconstitutional ... This approach has some merit and there is little case law in existence to guide us on our chance for success; however, I believe it is worth pursuing. ... Finally, you may recall that we sought approval of an initial \$120,000 to launch our effort in Massachusetts, including the necessary legal work that resulted in filing appropriate challenges to the measure's

constitutionality and to the ballot and petition language.⁷²(Bates no. 91815022)

A follow-up memo states:

We have retained the services of two attorneys with substantial initiative experience in the State. ... They have helped us greatly on our issue so far. ... We first attempted to present legal arguments about the initiative's constitutionality to the Attorney General prior to his certification of the issue for circulation. ... A second stage of legal pursuits is to take our constitutionality arguments to the State Supreme Judicial Court.⁷³(Bates no. 91815008–5009)

A 1993 document describes the utilization of legal tactics related to several ASSIST-based state initiatives:

[In Colorado] A new, ASSIST funded coalition has been established to work on a variety of anti-tobacco issues. Among the coalition's priorities is the passage of a tobacco tax increase for a variety of anti-tobacco purposes. ... Goal: increase coalition partners, maintain current initiative laws, and defend/deter/delay potential anti-tobacco initiative. ... [Tactics] Fund legal challenge and signature verification challenge. ... Track ASSIST funding to determine potential violation of laws governing use of federal and state funds. ... Increase difficulty for opposition to retain various professional signature gathering firms to assist in their efforts. ... Form alliance with tolerance campaign. Contribute toward legal work being done for coalition aimed at overturning law [an anti-gay rights legislation].⁷⁴(Bates no. 92758356–8357)

Usurping the Agenda

This cluster includes the industry's efforts to undermine both the public and the legislative agenda in the area of tobacco control by imposing its own agenda. Activities include the development of alliances with groups, such as retailers, in order to broaden the support base for its agenda, mainly in the area of youth smoking and public smoking.

A 1988 Tobacco Institute presentation on the legislative challenges and plans to address the issue of public smoking states:

... there are opportunities to put the anti-tobacco groups on the defensive ... in their own strongholds ... places like California, Colorado and Massachusetts ... places for us to go on the offensive ... We are excited about the opportunities presented by the new approaches ... of repealing/modifying/rolling back existing legislation ... of promoting ventilation ... or IAQ [Indoor Air Quality] legislation ... and smokers' rights legislation. ... By implementing these concepts, we can set the legislative agenda ... [emphasis in original]⁵⁸(Bates no. TI01770259-0260)

To gather support from the hospitality industry against growing smoking restrictions, the industry developed a program to present the smoker as customer and to assist hospitality venues in accommodating both smokers and non-smokers.

Subjected to heavy anti-smoker pressure, the hospitality and travel industries are beginning to

soften—and in some instances abandon—their traditional opposition to anti-smoking initiatives. Many are being encouraged to restrict smoking to protect the public's health, to reduce overhead expenses and thereby increase profits. ... [Strategies, goals and tactics include] Maintain a list of individuals within the hospitality and travel companies, who are responsible for developing and implementing anti-smoker policies. ... Promote improved indoor air quality as an alternative to smoking restrictions. Promote indoor air quality consultant speakers at national, state and local hospitality association meetings. ... Encourage state and local hospitality associations to produce guides on smoking restrictions laws to assure reasonable interpretation and protection of smokers' rights.⁶⁹(Bates no. TIMN0366822-6824)

A 1990 Tobacco Institute memorandum refers to a model bill that could be introduced at state level:

... a state-level model bill addressing industry issues that fall within the scope of the "minors" debate ... The industry model addresses key issues such as vending sales, sampling, licensing and preemption. It is important to note that this is a generic bill ... [it] is unlikely that the bill would be utilized in its entirety in any situation, since some states already have laws regulating one or more of its provisions. ... this model "minors" bill was designed to be used either defensively, or in a proactive or preemptive manner in priority states where these issues are most likely to surface. [emphasis in original]⁷⁵(Bates no. 947035576)

The 1990 Tobacco Institute plan, when addressing the issues related to fighting advertising restrictions, states:

Demonstrate that the industry does not want children to use its products and has taken positive steps to discourage such use.

Goals and Tactics:

1. Determine the feasibility of three new programs to:
 - Create a new industry advertising and promotion code that would cover all sales and promotions practices that become controversial because of exposure to youth, black, Hispanic or other allegedly vulnerable audiences.
 - Publicly support enactment of smoking age laws in the few states which do not have legislation on the books.
 - Develop a cooperative program with retailers, especially convenience stores, encouraging compliance with smoking age laws via point-of-purchase and other information material.⁷⁶(Bates no. TIMN0361600)

A Tobacco Institute 1997 document demonstrates that the industry continued to be concerned with setting the agenda for state activity:

legislative assemblies are our last line of defense ... In keeping with this, it is surprising to read that projects relating to youth smoking, fire prevention and voluntary solutions to workplace and restaurant smoking have little or no value. We judge these to be examples of the bona fides of the cigarette industry in its urgings of private rather than public policy solutions to major issues. Our files contain innumerable communications to support this view. ...⁷⁷(Bates no. TIDN0016871)

These tactics also apply to industry efforts in response to ASSIST. A 1992 Philip Morris memo on countering ASSIST states and the potential for ASSIST to create marketing restrictions describes how its youth access program can serve as a preemptive tactic:

Also, a major goal of ASSIST is to reduce youth incidence, the tobacco industry could also offer our own youth initiatives with Tobacco Helping Youth Say no, and the COURSE Consortium, (once a curriculum is developed) and suggest that further Federal or state funding is not needed for youth anti-smoking campaigns.⁷⁸(Bates no. 2023916867)

Retailers' associations also played a prominent role in the industry's attack on ASSIST in Minnesota. A series of 1995 and 1996 "status reports" from the Minnesota Coalition of Responsible Retailers discussed strategies to deal with potential sales and marketing restrictions, many in direct response to ASSIST initiatives. For example,

[Detroit Lakes] ... An ordinance committee consisting of ASSIST group members, retailers and a city council member will meet to discuss what kind of ordinance should be adopted regarding tobacco products. Rather than waiting for the ordinance committee to act, Tom Briant will be coordinating a pro-active ordinance sponsored by the retailers that will adopt reasonable regulations on tobacco products based on certain ordinances adopted in other Minnesota cities. A lead retailer who knows all of the city council members personally will be working on the pro-active ordinance.⁷⁹(Bates no. 94004146)

Creating Illusion of Support

This concept map cluster includes the well-described industry tactics of funding front groups either in entirety or as a major sponsor. The industry goal is to give the impression that there is broad-based, grassroots support for its proposals and strategies. The companies would also use their own employees in this grassroots efforts.

When discussing the plan to stop tobacco control measures for 1988 and beyond, a Tobacco Institute document describes how the industry desired to be perceived as a local interest:

We remain an alien corporate entity, not a voter. This will change. A legislator must identify the tobacco industry as a local interest group: a tobacco wholesaler, a tobacco retailer, a vendor, a member company sales representative, a convenience store manager or even a bowling center proprietor. Unless a legislator can identify with our industry in the form of an individual, it is very easy for that legislator to vote against the industry without any fear of local accountability.⁸⁰(Bates no. TIMN0014204)

The document proceeds to describe how the tobacco industry is going to “recruit” people to represent them, how it will develop “grassroots education seminars,” and continue with the phone banks and direct mail, and

The identification of local legislative activists and state legislators to be targeted is the cornerstone of this plan. This “name and face” contact system must be supported by the mechanical resources that have been

effectively executed in the past. We have been putting the cart before the horse ... now we have the horse: the local activist. ... These programs, in support of local activists’ personal contacts, are designed to drive home the economic realities of tax increases, advertising bans and restrictive smoking legislation. This is a flexible support plan that can be tailor made to any legislative district depending on the issue or the specific committee or floor vote.⁸⁰(Bates no. TIMN0014209)

The Tobacco Institute also discussed, in its 1988 budget and plans, how broad-based coalitions could advance the tobacco industry agenda.

In dealing with public issues, the industry has come to rely more and more heavily on development of effective coalitions to complement and supplement its communications activities. ... Our allies’ greatest strength – independence – remains a limit on the usefulness of these coalitions. Allies may not agree or even have an interest in all industry issues, and may not be willing or able to assist in all ways requested. ... [The objective is to] establish and maintain working relations with other groups and individuals for the purpose of demonstrating broad support for industry positions and initiatives. [One of the strategies is to] broaden relationships with non-tobacco groups with which we are now working, establish relationships with new groups. [These groups included: labor unions, AFL-CIO, publishers’ groups, women’s and minority groups, Asian retailer communities.]⁸¹(Bates no. TIDN0018062–8063, TIDN0018066)

Indeed, the industry considered its ability to create the illusion of support as one of its greatest strengths, as described in this 1989 Strategic Plan for the Tobacco Institute:

... The Institute's ability to mobilize coalitions and third-party allies.

The Institute has been successful in its effort to develop relationships with the business community, minority groups, farmers, labor unions, veterans, active military personnel and low-income groups in an effort to fight excise taxes, smoking restrictions and other proposals. ... [The Institute] has utilized its coalition building strengths to find allies in the advertising industry, as well as among cultural and sports organizations who rely on promotional funding from tobacco manufacturers.⁸²(Bates no. 87649084)

A 1994 Brown & Williamson draft document describes a proposal for the creation of the company's grassroots political action program, "The Minutemen Project":

... This proposal calls for bringing grassroots pressure on elected officials to resist the unwarranted regulation and the taxing of the tobacco industry. Government officials must be made to understand that anti-tobacco activities have a high political risk. ... To develop a targeted grassroots process that will be make it possible for B&W to place political pressure on specific elected officials at the federal, state or local levels and to expand the program to a broader scale, reflecting a pro-active governmental affairs process. ... Such constituents would consist of individuals and groups that support the concept of freedom

from governmental intervention, including smokers, members of the trade, suppliers, wholesalers, retailers, growers and others. [Coalition partners would include, among others] grocers associations, restaurant association, bingo parlors, anti-tax groups, ... [the strategy would include] phone banks ... direct mail, ... personal visits, ... media [training], testimony ... survey and polls, ... petitions, ... resolutions. ... Activating third parties offers insulation to the company from direct criticism. Even though the third parties are sought out and activated through company funded efforts, it will be the third parties actually doing the lobbying. ... The potential downside is that the company will be accused of fraud.⁸³(Bates no. 533250094-0095,533250098)

However, the creation of grassroots efforts was not always without problems. A 1987 document about a campaign in Minnesota describes in detail how the grassroots effort was mounted, with phone banks, several waves of mailings to tobacco retailers, letter writing campaigns, and a petition drive. When assessing the problem with the missing human component, it states:

Even though we blanketed the state with industry-generated, professionally prepared, targeted and timed grassroots activity, the missing factor was the human component. That is, we failed to zero in on persons in each legislative district who contribute to their legislator, regularly communicate with their legislator, socialize with their legislator and are active in that legislator's reelection bids. ... The missing component allowed the legislator to follow the line of least resistance, thereby circumventing

any real accountability to his or her constituency and supporters.⁸⁰(Bates no. TIMN0014202)

This ability to create the illusion of support would be used to counter the ASSIST program as well, as described in this 1992–96 Philip Morris Corporate Affairs Plan:

Counter ASSIST Program in 17 states: Work with grass roots organizations to divert state health department funds, equivalent to the amount of ASSIST funding, to support other health programs (pre-natal care, half-way houses, etc.) ... Develop retailer mobilization program to aid in identifying and fighting local sales restrictions – particularly vending and free standing display bans or restrictions. ... Coordinate with minority business organizations to demonstrate the economic benefits of the industry on minority communities. ... [To oppose smoking restrictions/bans] Develop and market workplace and service venue accommodation programs with: National Federation of Independent Businesses, American Manufacturers Association, International Council of Shopping Centers, Hospitality/Service Associations.⁸⁴(Bates no. 2025869600,2025869602)

A 1993 report reinforces the concept of using “grassroots,” in addition to lobbying, to counter ASSIST, describing the utilization of allies and front groups financed by the tobacco industry and discussing how important for the future of the industry it is to maintain funding for these activities.⁸⁵ A 1994 document discussing some of the main political challenges in the northeast region gives

another example of how the tobacco industry used front groups in both ASSIST and non-ASSIST states:

A major tax increase will be proposed next session in Maine to pay for health care reform. We will be pulling out all stops to show how a steep tax increase will hurt Maine’s economy. ... We will also be working with allies such as the Maine Grocers Association to encourage opposition to any tax increase. Maine is an ASSIST state, which means it gets federal funds to reduce the incidence of smoking. ... ASSIST funding gives the artis in Maine and other states deep pockets to lobby for smoking and marketing restrictions at the local level. The presence of ASSIST makes enacting smoking accommodation and marketing pre-emption priorities for us in Maine during 1995. ... Rhode Island is an ASSIST state, and we expect a proposal to ban public smoking in Rhode Island next year. Our goals in Rhode Island in 1995 will be to work with others to oppose any proposed smoking ban while working to help enact smoking accommodation and marketing pre-emption.⁸⁶(Bates no. 2040236694–6695,2040236698)

Harassment

This cluster describes the industry activities to undermine public health efforts to the point where public health activities would be ineffective. It encompasses harassment and intimidation such as the use of the industry resources to file encumbering requests for documents with the Freedom of Information Act, threats of legal challenges, and the infiltration of tobacco control groups and coalitions.

The industry kept close track of the developments in the tobacco control community. This 1990 Tobacco Institute memorandum describes attendance at a Stop Teenage Addiction to Tobacco (STAT) conference:

These [conference] recommendations include what we believe to be an [*sic*] comprehensive list of the anti-tobacco movement's goals for the coming year. ... The industry should give consideration to these activities in developing its plans for 1991.⁸⁷(Bates no. 947187672)

The following document was written by a tobacco industry person who attended a coalition meeting in Fort Collins, CO, in 1992, making use of open meeting policies:

They seem to comprise the Coalition for a Tobacco-Free Colorado. ... despite my effort to remain invisible, ended up seated at the head of the table. I signed in as a student... [the] "close quarters" inhibited my notetaking somewhat. ... would advise future "plants" to arrive late and leave early, avoiding the awkward small talk with other attendees that might create suspicion.⁸⁸(Bates no. 2023667420,2023667422)

The tactic was broadly used with ASSIST, where the industry kept trying to accuse ASSIST states of illegally using federal funds for non-allowed lobbying activities. Apparently, shortly after the announcement of the ASSIST project, Peter Greenwald, Director of the NCI Division of Cancer Prevention and Control, received a letter from Senator Malcolm Wallop (R-WY) and other legislators expressing concern that "Government funds might be used to support

lobbying at the State and local levels." Greenwald responded that it was "neither the design nor the intent of ASSIST to use Federal money for such purposes" but emphasis would be on policy and dissemination of information to policy makers.⁸⁹(Bates no. 512545942)

A 1991 letter from R.J. Reynolds to Representative Rick Boucher also brings up the issue of federal funds being used for lobbying through ASSIST:

ASSIST raises serious policy and legal questions about the role of NCI ... it appears that the NCI research concentrated on the use of media events, ... and lobbying for increased cigarette prices, clean indoor air, and restrictions on tobacco promotions as means to stop tobacco use. ... These issues are important enough to merit appropriate Congressional oversight. Your role as Chairman of the Science Subcommittee makes you an ideal candidate to exercise that oversight responsibility.⁹⁰(Bates no. 512546018-6019)

Another 1991 memorandum describes the actions the industry will take against ASSIST:

... the following actions may be undertaken to counter potential state and local legislative action resulting from [ASSIST]

- Public Affairs Division will obtain technical proposals submitted ... under the Freedom of Information Act.
- Proposals will be reviewed ... for "public policy" activities that could spark state or local legislation on tobacco issues.
- Federal Division will alert key Members of Congress to protest use of federal taxpayer dollars (a) for activities that could impact

tobacco-producing states' economies, and (b) to interfere in state and local legislative issues.

- Federal Division will attempt to amend [NCI's] next authorization or appropriation bill (a) to prohibit use of grant funds for influencing state or local legislation, ballot initiatives, or other regulatory activities, and (b) to require detailed auditing and reporting of grant expenditures. ...
- State Activities' regional staff will identify local business and labor interests in 17 grant states who could gain representation in community-based ASSIST coalitions.⁷¹(Bates no. 512715488-5489)

A 1992 Philip Morris memo discusses the industry "opportunities to disrupt ASSIST funding."⁷⁸(Bates no. 2023916866)

1) Congressional Investigation ... A more thorough investigation should be launched, particularly in terms of the NCI/ACS relationship and the use of federal funds for state and local lobbying purposes. With the current budget debate in Washington, this would be a good time to launch an investigation....⁷⁸(Bates no. 2023916866)

Prior to this Congressional Investigation plan the industry attempted to achieve similar results, through allegations of using federal funds for lobbying activities, with letters from Senators Wallop (R-WY), Hatch (R-UT), and McConnell (R-KY) to U.S. Department of Health and Human Services Secretary Louis Sullivan. However, no widespread investigation resulted from these letters.^{91,92}

Another document lists the utilization of FOIA as a counter-ASSIST measure:

In response to our Freedom of Information Act request, the National Cancer Institute sent us the proposals submitted by states that did not receive ASSIST awards in addition to the 17 that did. ... Though these states have not received ASSIST funds, they'll probably be using their proposals as blueprints for at least limited anti-smoking activities anyway, having gone through the trouble of developing them. So, a review of these proposals at some point would probably be useful.⁹³(Bates no. TCAL0314212)

FOIA tactics were also used at the state level. For example, in Minnesota, a 1993 memorandum describes how requests were filed with the state health department:

Tom Briant, esq., of the Minnesota Wholesalers Association has obtained over 500 pages of documents from a recently conducted FOIA of the state's ASSIST program. Tom developed the attached chart from his review of the documents. ... I have the documents from Tom's first FOIA and will receive updates from a second FOIA that will soon be submitted to the state health department. ... Tom's work reaffirms the value of conducting FOIAs in ASSIST states. As we discussed, it is important that we finalize our selection of states for this activity.⁹⁴(Bates no. 2023763792)

Another January 1993 ASSIST/FOIA titled "ASSIST Program Issue Alternative Course of Corrective Action" discusses the potential for allegations of illegal lobbying by ASSIST grantees and suggests that grant applications for all 17 states should be obtained through FOIA requests and then using the information as

... prima facie evidence of a lobbying restricting violation. Additionally, we should determine whether similar requests have been made at the state level for funding requests from local organizations...⁹⁵(Bates no. 2023667197)

A series of documents, mainly from the Minnesota Wholesale Marketers Association, Inc., discuss the challenges of the use of ASSIST funds brought up by the Minnesota Grocers Association, following extensive FOIA requests, the decision of the Ethical Practices Boards, and the denial of the grant application of the Minnesota Grocers Association for ASSIST funds. For example,

Other options still under consideration are requesting an investigation of the Minnesota ASSIST Project by the Inspector General of HHS and asking the Minnesota Legislative Auditor to commence investigation which the Auditor had placed on hold pending the Ethical Practices Board Investigation.⁹⁶(Bates no. 2047234478)

Documents relating to the use of FOIA as a tactic against ASSIST in Colorado^{97,98} and Washington also exist.^{99,100}

Undermining Science

This concept map cluster represents the tobacco industry's decades-long tactics of challenging evidence about the hazards of tobacco use. For many years, the industry denied the harmful effects of smoking. However, it now concedes that smoking may be associated with some diseases, such as lung cancer, emphysema, and heart disease, and with other serious diseases. This tactic includes the industry's use of consultants and public

relations efforts in an attempt to create controversy with the public and policy makers, where no scientific controversy exists. This tactic is exemplified in the tobacco industry's approach to the research about the negative health effects of secondhand smoke. The industry created research funding centers as part of this effort.

For example, a 1988 Tobacco Institute presentation discussing the industry's scientific program states:

[CIAR] members are in London at a symposium which hopefully will produce some immediate ammunition. We hope the Center comes up with some science ... and soon ... because frankly nothing else could have the same effect.⁵⁸(Bates no. TI01770275)

Another 1988 Tobacco Institute document states that as part of the plan to address the growing public concern over secondhand smoke, one of the tactics would be

Through the Center for Indoor Air Research, encourage scientific research and publication of articles that point to environmental tobacco smoke as a minor indoor air quality factor.⁸¹(Bates no. TIDN0018098)

And a 1990 Tobacco Institute 1990 plan describes further the use of consultants to assess environmental tobacco smoke (ETS) issues:

Develop and maintain a well briefed group of academic consultants able to review ETS literature for scientific media, respond to ETS research published in the scientific media, and conduct briefings and present testimony before Congress as well as

federal and state regulatory agencies. Encourage publication of at least four major analyses of the relationship between ETS and health claims during 1990. ... Ensure participation of scientific consultants in national and international symposia on the relationship between ETS and health claims. ... Continue to encourage scientific research and publication of articles that objectively assess ETS in the context of all indoor air quality factors.⁷⁶(Bates no. TIMN0361605–1606)

Consultants were used in all areas where the industry could be attacked, not just the smoking or health issue but also economic aspects of tobacco and tobacco consumption. For example, a 1992–96 Philip Morris Corporate Affairs Plan describes how the industry was going to address the debate about the social costs of smoking:

[On the smoking and social cost issue] Develop and publish studies:

- Systematic, external, micro-economic models to provide a clear picture of smoking's impact on society.
- Applicability and measurement of social cost and social benefits to fiscal/ tax policy development.
- The value of free choice in a democratic society. ...

Develop studies comparing social fund performance vs. PM and industry as whole. ...

Sponsor sessions at annual conferences on social cost theory and its application in public policy development.

Co-sponsor symposiums [*sic*] with Centers in Public Policy and Society

of Government Economists on social cost theory for legislators and other government officials. ...

[On the Taxation issue] Develop and publish studies on:

Bootlegging/cross border activities.

Regressive nature of proposed taxes.

Inflexibility/instability of earmarked taxes.

Progressive solutions to deficit reductions.⁸⁴(Bates no. 2025869601,2025869603)

The tobacco industry also attempted to use science as a means to gain credibility, and the science strategy was then linked to the industry's media manipulation and public relations strategies. A 1998 Philip Morris Worldwide Scientific Affairs Strategic Plan Draft asks:

How will we improve our *credibility* within the scientific community in order to ensure that a balanced view is taken on smoking and health science? [emphasis in original]¹⁰¹(Bates no. 2064716946)

Media Manipulation

This concept map cluster reflects tobacco industry tactics to use information created by its consultants and scientists, as well as its influence with the media through advertising expenditures, to convey to the public its perspective on the tobacco control debate. For example, a 1988 Tobacco Institute plan for Minnesota discusses how the industry will work with the local media to enlist their support:

[The meetings] will feature Tobacco Institute resources and resource

personnel particularly from the Public Affairs Division. The target is local media and decision makers (weekly newspaper editors, radio station managers, advertising company employees, service organizations), other civic groups, and labor union leaders. The specific purpose of these meetings would be:

build alliances with, and inform attendees of, constitutional, freedom of choice, scientific, economic and labor issues in targeted legislative districts; ...

activate new print and electronic media contacts in areas where media activity might not be as well developed as in larger markets; and,

concentrate on small weekly newspaper editors who are generally not consulted on major issues, by instituting briefings and continuing personal relationships.⁸⁰(Bates no. TIMN0014207)

The 1988 Tobacco Institute Public Affairs Division plans and budget stated that in response to the increased level of interest created in the media by the release of the 1986 U.S. Surgeon General's Report on passive smoking,¹⁰² the Institute has had many opportunities to speak with the media and

as a result of a more aggressive approach, The Institute is seen as a reliable source and credible newsmaking organization by an increasing number of journalists. ... Maintaining, and in fact increasing, this momentum will remain of paramount importance in the upcoming year. ... Industry positions are generally strong and compelling. Allies and expert consultants have

assisted in gaining a great deal of ground. Increasing utilization of both resources through carefully planned, aggressive media strategies is the challenge. ... As we have seen in the past, the staging of preemptive media activities works well, and allows greater latitude to frame our message while weakening that of the opposition. [The goals and tactics are to] keep the Institute in the driver's seat through speakers' availability and, to the extent possible, knowledge of anti-smoking announcements before the fact.⁸¹(Bates no. TIDN0017995,TIDN0017996, TIDN0017997,TIDN0017999)

A 1995 Philip Morris media plan for Colorado describes some of the details of the media strategy to defeat a proposed tax increase initiative:

...the defeat of the 50-cent excise tax increase last November and the recent opening of the ... smoking lounge at the Denver International Airport indicate that a significant portion of the Colorado media is amenable to taking a broader view of tobacco industry issues. ... The vast majority of Colorado's print and electronic media have been open to meetings, educational visits and materials which present a balanced and more global view of the issues. ... [We] are confident we can continue to change the media's views and, ultimately, the views of the general public, toward a more equitable philosophy in regards to those issues affecting the industry. ... How will we make this happen? ... Initially, we will assist in the development of the key issues and message points we believe will be effective in Colorado. Using this "War Book" of comprehensive

position statements, we would present the broadest range of potentially beneficial – or damaging – issues to select editors, reporters and editorial boards ... [The document describes how they would “tailor” the approach with individualized media discussion in each market.] We will look for appropriate opportunities as well to present our side of the issue and belief with the “Where We Stand” packet and other program materials. However, this is not advisable now until a specific issue appears which allows us to engage in opportunities. [Hand-written note: “create opportunity!”] ... This proactive and personal approach will allow us to intercept anti-tobacco messages earlier in the media pipeline, allowing us to respond to negative stories by providing balance and perspective to both media and public debate. [The document also discusses the creation of alliances in order to recruit spokespeople.]¹⁰³(Bates no. 2044270550–0551,2044270553)

Public Relations

This concept map cluster reflects the industry’s attempts to portray itself as a responsible, socially conscious member of the business community and an indispensable member of any community. Activities include promotion of its philanthropic endeavors (for example, corporate social responsibility programs), framing the debate as generally as possible, and broadening its scope to extend beyond health issues. Examples include efforts to link the “right to smoke” to civil rights concerns and statements to the effect that if the tobacco industry is regulated, other industries would be next, creating a dangerous “police state” precedent.

When developing strategies to oppose marketing and advertisement restrictions, a 1988 Tobacco Institute plan states that one of its strategies is to

Demonstrate that the proposed restriction of tobacco advertising and promotion sets a dangerous precedent to other industries and their trade groups – the: “Slippery Slope Strategy.” ... [Some of the tactics included] Commission a review article by some scientific think tank such as the Franklin Institute that would demonstrate that (a) tobacco is not unique as an alleged health hazard and (b) list the great number of citations in the literature of other generic products and practices that could easily share the same status. Seek publication in *Science* or similar professional journal. [emphasis in original]⁸¹(Bates no. TIDN0018082–8083)

This section of the document also addresses the industry as being a responsible corporation:

Increase the level of awareness among local, state and federal officials and opinion leaders that smoking is only one of a constellation of adult practices; that social and family factors are the primary factors shaping the behavior of young people; and that member companies act responsibly in this regard. ... [One of the goals is to] gain professional and legislative recognition for the industry’s effort to shield youth from cigarette advertising.⁸¹(Bates no. TIDN0018085–8086)

A 1989 Tobacco Institute document provides an example of the industry’s attempt to promote the corporate responsibility image:

Focus the attention of elected officials, the media and the public on the

Lessons from the Tobacco Industry Documents

The documents search verified that the tobacco industry engages in tactics specifically designed to counter public health programs and that some measure of these tactics is available in those documents. Because the search of the tobacco industry documents identified specific strategies and actions of the tobacco industry to counter ASSIST, the documents search validates the decision to include protobacco forces in the ASSIST evaluation design. Moreover, the analysis showed that industry strategies could be categorized into eight topic areas, as outlined earlier:

1. Lobbying and legislative strategies
2. Legal and economic intimidation
3. Creating the illusion of support
4. Usurping the agenda
5. Harassment
6. Undermining science
7. Media manipulation
8. Public relations

This framework could eventually be used to create a summary index similar to the Strength of Tobacco Control index (see chapter 2). In addition, such a framework provides a template on which to build a broad model of industry counterefforts against public health endeavors.

While the tobacco industry documents are important for identifying and describing industry tactics, they serve as a document collection and not as a complete, searchable database. This means that to use them for any index of tobacco industry tactics, either as a whole or on a statewide basis, alternative data must be identified.

responsiveness and responsibility of the cigarette industry over the decades.⁶⁹(Bates no. TIMN0366866)

In 1994, Philip Morris established a task force to investigate the issue of youth access. The main concern for Philip Morris was that the “antis” had done a good job in co-opting the issue of youth smoking and turning it into a political strategy at all levels of government (local, state, and federal) and in all three branches (legislation, regulation, and judicial action), similar to the strategy often used by the industry itself:

Anti-smoking groups use the theme of “protecting children” to promote efforts to restrict smoking by adults. These efforts include: Cigarette excise taxes, smoking restrictions and

marketing restrictions. ... Even in the debate over addiction, youth smoking plays a prominent role in the anti’s call for FDA oversight.¹⁰⁴(Bates no. 2024687704)

The Philip Morris document discusses what the company should do and recommends that Philip Morris work with retailers and take an active role in the youth access arena. The document outlines the development of the “It’s The Law” program.¹⁰⁴

Tobacco Industry Tactics: An Evaluation Challenge

Measuring a construct as complex and elusive as tobacco industry tactics raises a panoply of potential

measurement challenges and threats. These challenges include defining tobacco industry tactics broadly enough to encompass tactics that affect public health initiatives yet narrowly enough for parsimonious measurement, reliably identifying data sources and subsequently accessing them. For example, while White and Bero⁵⁶ (also see Monograph 16, chapter 8) identified tobacco industry actions employed to counter ASSIST, the tobacco industry engages in many standard business practices, such as marketing (e.g., advertising, price promotions) that counter public health. If these standard business practices are not included, is the resultant index an adequate one? Alternatively, if all possible tobacco industry efforts could be included in a potential index, are there reliable and valid data sources to parsimoniously measure them for each state?

Approaching Limitations and Challenges to Measurement

This chapter begins to address some of the limitations and challenges to measurement with three separate approaches: concept mapping, general literature review, and ASSIST-specific document searches. This work is primarily focused on defining the scope of the problem and providing guidance for future research to be able to produce appropriate variables that can be included in the evaluation of tobacco control programs.

The chapter begins by describing an empirical effort to define the scope of the problem of tobacco industry tactics. It discusses a concept mapping project

that tapped the expertise of individuals in the field of tobacco control with respect to industry tactics, and presents that experience in a model. This model identifies that indeed tobacco industry tactics exist and can potentially be classified according to eight domains: attempts to undermine science and legitimate messages from scientific quarters, the manipulation of the media, the industry's public relations efforts, the tactics the industry uses to gain control of the public agenda, lobbying efforts, the use of front groups and artificially created grassroots movements, intimidation, and harassment of tobacco control professionals. The high level of internal consistency in the model development lends legitimacy to the model for identifying both that tobacco industry tactics are an important component of the evaluation of tobacco control efforts and that the model can provide a framework for evaluating industry tactics.

Summary

Separately, the concept map results, the documents review, and the literature review are not sufficient to develop an index variable. They do, however, validate the importance of understanding tobacco industry tactics and help to define a construct to guide index creation. The consistency among the three approaches was very high. A procedure involving experts in the field of tobacco control led to a concept map of their observations and experiences with tobacco industry counterefforts. The review of the published literature revealed that the tobacco industry implemented these same identifiable tactics. The review of

tobacco industry documents shows that the industry had a specific intention to disrupt public health programs, including ASSIST, through identifiable tactics. The three approaches also show that the tactics may be categorized and suggest that it may be possible to systematically assess these tactics as a first phase to developing a metric.

This chapter has begun the important work of identifying tobacco industry tactics and laying the groundwork for a measurable construct. The tasks that remain include defining data sources and designing systematic methodologies for data collection. Although indexing work on the tobacco industry documents^{105,106} has made this a rich data source, there still remains no guarantee that the records are or will ever be complete. Because these records are not complete, there is no way to determine whether information is systematically missing and whether the documents as a whole are biased in some unknown way. Reporting requirements about lobbying and advertising vary widely from state to state, making reliable state comparisons impossible. Tactics that may be very important to the tobacco industry may not be assessable in real time because their value cannot be divorced from their context.

Near-future research efforts might focus on more clearly defining those constructs that constitute an anti-public health index, and more specifically on the operational definitions of those constructs. Subsequently, an assessment of factors proposed for that index could be examined in the same manner that factors for the Strength of Tobacco Control index (chapter 2) were assessed

(on the basis of parsimony, scientific support, and feasibility). Our initial assessment suggests that any valid and reliable index would be difficult to create because the information that it is feasible to collect is so limited.

This chapter has begun the effort set forth in Stillman et al.¹ discussing the importance of including protobacco forces in an evaluation design and providing guidance toward developing this construct. It is hoped that others will continue this effort and help develop an index that can be used within evaluation models. Until an index is created and validated, however, tobacco control evaluations should acknowledge and qualitatively describe the protobacco forces, so that the evaluation report can be interpreted within an appropriate context.

Conclusions

1. One of the early objectives of the ASSIST evaluation was to define an index of protobacco activity as part of its analysis. Toward this end, the ASSIST evaluation project undertook a review of tobacco industry documents and published literature on tobacco industry counterefforts, as well as a concept mapping process used to identify key tobacco industry tactics.
2. Eight key tobacco industry strategies identified include lobbying and legislative strategies, legal and economic intimidation, creating the illusion of support, usurping the agenda, harassment, undermining science, media manipulation, and public relations.
3. A Web-based concept mapping process performed as part of the ASSIST

evaluation project engaged tobacco control stakeholders to identify tobacco industry tactics. This process produced a conceptual map that provided detailed lists and clusters of tactics that may be useful in future quantitative measurement efforts.

4. A search of tobacco industry documents verified that the tobacco industry engages in tactics specifically designed to counter public health programs, including ASSIST, and specific industry concerns and tactics are outlined in those documents.
5. Challenges remain in quantifying the impact of tobacco industry counter-efforts in public health in a form that can be used in the evaluation of tobacco control projects, including data sources and collection procedures. Possible future areas of study include direct and indirect measures of campaign funding, lobbying and advocacy efforts, and legislative measures. At a deeper level, a long-term goal is the definition of operational constructs for an anti-public health index that effectively quantifies the impact of tobacco industry counterefforts.

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