

From: Bryan Brown, Adam
Sent: mardi, 16. octobre 2001 16:18
To: Browell, Quentin; Smith, Timothy; Holy, Solveig; Cote, Guy
Subject: RE: <no subject>

As you would expect he is occasionally brilliant, often mad, generally provoking. We see it all here. Let's discuss at least some of this when we talk INB.

The M7 stuff could be very interesting.

As Q knows, I left it to Roger to justify his current cost or an increased cost. If he is going to do more, and we think he is worth it, then paying some more is not impossible.

Key with Roger is focus and follow up. I think we all know this. But as we also know, he is neither shyster nor shark.

From: Browell, Quentin Japan Tobacco International
Sent: Tuesday, October 16, 2001 4:02 PM
To: Smith, Timothy; Holy, Solveig; Cote, Guy
Cc: Bryan Brown, Adam (JT)
Subject: FW: <no subject>

This is the note from Roger Scruton following last week's meeting. I have already warned him that we are unlikely to pay him more as he got a pay rise last year. Q

-----Original Message-----

From: Sophie Scruton [mailto:shf@easynet.co.uk]
Sent: lundi, 15. octobre 2001 18:18
To: Browell, Quentin (JT)
Subject: WHO

Dear Quentin,

Further to our phone conversation, this is first to give an interim report on the FCTC Guidance notes, and secondly to put forward a few suggestions as to what we should be doing for the rest of this year, and for the forthcoming INB. I also attach a draft proposal for next year.

1. The FCTC Guidance notes.

These are very good, and no doubt reassuring to the company and its staff. Properly developed they could be used to shift the onus back on to the WHO to justify the vindictiveness of its attack. I personally would like to see more explicit mention of other products that are open to the same criticisms as tobacco and which ought to be of equal concern to the WHO. For example fast-food of the MacDonald's variety, which seems to be addictive, is aimed at the young, is a serious risk to health, with a worse effect on life-expectancy than cigarettes, and, unlike cigarettes, has a seriously corrosive effect on social relations and family life. In your general statement of position (p.3) you could add something to this effect to the third paragraph, about vindictiveness, along the following lines:

Moreover, as the examples of alcohol and fast food show, there are many other legally marketed products that may pose a risk to health comparable to that posed by tobacco but

which the WHO does not feel called upon to regulate. Surely, global legislation of the kind proposed by the WHO ought to be founded on clear principles, impartially applied. Otherwise global regulation means local injustice.

Just a suggestion of course. On p. 5, when you say that "These risks distinguish tobacco from most consumer goods", it might be good to say "most, but not all", so as to emphasize the point.

Here are my suggestions as to how to translate each of your statements into a crisp message.

(1) Objectives. "Dialogue, not punishment."

(2) Guiding Principles. The last sentence on this page might be better re-phrased as "The issue is one of freedom of choice". The message then could be: "Responsible choice means both freedom and risk".

(3) General obligations. This does not require a message unless you want to emphasize the unprincipled nature of the attack on tobacco, and the threat to national sovereignty, involved in the apparatus here described.

(4) Taxation. This is an important section, and I wonder whether you should add a couple of things: at the end of the first paragraph, something to the effect that price harmonization across the globe is an absurd aim, given the enormous differences in standard of living, and therefore in purchasing power, which inevitably affect the price of consumer products. I also think the point made at the end, that the prohibition of duty-free sales is likely to fuel contraband, is of the first importance. Duty-free sales helped to satisfy the ordinary tourist's demand for gifts of tobacco to bring home, and were a way of discouraging large-scale purchase abroad for re-sale on the home market. By removing tax entirely, they helped to contain the ambition to evade it. It is since the abolition of duty-free purchases that we have seen the enormous escalation in tobacco smuggling across the channel.

Your message might be: "Increasing taxes increases the risk of smuggling."

(5) Product liability. (Point of grammar: uniqueness doesn't admit of degrees, so you should not describe the US system as highly unique.) The message here is "Regulation, not litigation." Alternatively: "Litigation is a conflict which only the lawyers can win."

(6) ETS. This is straightforward. Message: "Courtesy pays."

(7) Ingredients. This is a difficult one to boil down. I think it would be good to add to the point about trade secrets that, by revealing them, you open the floodgates to the counterfeiters. The message should perhaps be simply "Maximum transparency".

(8) Advertising. The message here is that regulation must respect the right to responsible advertising if the trade is to remain open, legal and accountable. More simply: "The right to advertise responsibly is an essential part of free trade."

(9) Dependence. (Grammar: change "a smoker" to smokers, so as to get rid of the constant switch from singular to plural.) Message: "Those who find it hard to quit should be helped to do so."

(10) Contraband and counterfeit. The message is: "we welcome all measures that help to ensure the legitimacy and accountability of our trade".

(11) Packaging and labeling: I wonder whether you might add a sentence at the end of the second paragraph to the following effect: Trademarks are not merely valuable private property, often representing many years of investment; they also help to ensure honest dealing between producer and consumer, by ensuring a reliable product, marketed in accountable ways.

The message is "Our products should be honestly marketed, and their trademark guaranteed".

(12) Education. The message is "We must advertise responsibly; so must our critics."

(13) Licensing. The message is: "Licensing is a legitimate form of control".

(14) Government support for tobacco etc. The first sentence of your position could be supplemented to this effect: Agricultural subsidy is a delicate and controversial matter, which is the focus of heated debate at both the national and the international level. We do not think it advisable for the WHO to complicate what is already an extremely difficult problem, by imposing a global requirement that is wholly insensitive to the local differences in climate, soil, culture, and crops. In our view, each sovereign state must approach the question of

subsidies in the light of its own rural needs.

The message is: "Agricultural policy should not be globally prescribed".

(15) Reduced risk. The message is: "Smoking is risky; let's work together to reduce the risk".

(16) Surveillance, etc. Your position statement is already in the form of a succinct message.

(17) Scientific etc. cooperation. The message could be: "Global cooperation, not global legislation."

I hope that is the kind of input you wanted.

2. Immediate work on the WHO and the INB.

I suggest a four-pronged strategy:

(a) A coherent statement of position from JTI, addressed to the media, the INB and opinion-formers generally.

(b) An internal document for JTI staff, giving them confidence in the face of attack.

(c) Article(s) in the influential media, whose effect will be to discredit the FCTC process.

(d) Work on local managers to put JTI's case to the health and finance ministers of their governments. This is particularly important in those markets that have not yet been infected by the bug of political correctness - the former communist countries, e.g., Turkey, some of the Asian countries. (This latter a more long-term matter.)

The statement of position should perhaps be in two parts: a bullet-point summary and an extended defence of the product, with proper documentation designed to show that the methods proposed are both draconian and counter-productive. The approach to the press should be along the following lines: we fully understand public concern about tobacco. But

(a) why is tobacco being singled out, when the public is equally concerned about a wide range of other products, from fast-food to mobile phones, which have serious health risks attached to them? (b) Why is a global treaty necessary to regulate a product that is already regulated to a possibly counter-productive extent by national legislatures? The internal document could be more informal, designed to help employees see the absurdity of the stance taken by the WHO and the comparative innocence of their product.

The article(s) should appear ideally in a widely read newspaper with an impact on public opinion. I am making some preliminary enquiries with the Economist this week, and will research other possible outlets and authors meanwhile. I would be happy to draft any of the other documents (and also the article), should you approve of the plan.

3. Proposal for next year.

(See previous strategy document.) We envisage a more active and focused strategy, which will exploit the networks so far established, and make use of our special skills to achieve specific goals.

(a) Regular (perhaps monthly) meetings over lunch or dinner between relevant JTI personnel and key people for informal discussions. The purpose will be to activate the network.

(b) Use of media contacts to place relevant articles on the major topics of current concern to the industry. We would aim to place an article every two months in one or other of the WSJ, the Times, the Telegraph, the Spectator, the Financial Times, the Economist, the Independent or the New Statesman. While one or more of these articles might be written by RS, we would do our best to get other journalists to join in. Among the topics to cover we assume the following to be important: smuggling and counterfeiting; legislation governing packaging and brand-names; trans-national legislation generally; mendacious campaigns against the industry; the use of tobacco-legislation as a diversionary tactic in times of rising moral corruption; the greater health risk of other products; the abuse of product liability in tort and contract.

(c) Continued networking with opinion formers of a more general kind, in order to look for outlets for the message. (E.g. among Greens, utopian leftists etc., as well as free marketers and conservatives.)

(d) Production and distribution of the briefing, perhaps in another format, and perhaps only three times a year, in order to keep the network alive and to focus our own minds on the

issues. (Without something like this, the strategy is always in danger of becoming amorphous, and losing track of the argument.)

(e) Initiation of a program aimed at jurists, judges and practising lawyers, and also at public opinion, in order to highlight the dangers of using the law-courts to redistribute profits to self-declared "victims". We would consider a one-day conference with key British and American jurists, and a follow-up campaign in the media. We may be able to organize it through the Inner Temple, where RS is a barrister. We would aim to get sponsorship from other industries with a "product liability" problem, and to show the problem to be a growing one for all European and democratic jurisdictions. We should hope to get politicians to take up the cause and press for a revision of the principles on which damages are awarded.

(f) In relation to the Mild7 problem, we would hope to place articles on the legal and political absurdity and injustice of a law that expropriates a well-known brand-name worth billions to the company that has worked over many years to establish it. We would like to work closely with the lawyers representing JT in the case, and also would activate our network in Brussels, in the Commission, and in the European Parliament to see what could be done. We recognize that this issue will require considerable research and careful building of relationships, and cannot be planned at a single sitting.

(g) In relation to the FCTC and WHO, we propose a more general attack on the absurdity of trivial and unworkable trans-national legislation, at a time of global crisis, and global recognition that trans-national legislation can cause more problems than it solves, by tying hands which need to be free. This will have to be, initially, done through article(s) in the press (see above), but it could be linked to:

(h) Establishment of a circle of thinkers, opinion-formers and trouble-makers in Geneva, perhaps centred on the Philosophy Department in the University, and devoted to highlighting both the importance of JTI as a citizen of Geneva, and the threats to Swiss sovereignty and democratic government posed by the burgeoning UN bureaucracies in the city.

(i) Influencing the ex-communist countries to take a stand against the FCTC, through our associated company, CEC, perhaps with a few key meetings with relevant ministers.

(j) Regular meetings with Guy and Quentin, and also with key JTI staff and advisers, in order to obtain an informed impression of company thinking and strategy.

(k) Drafting and assisting with documents, whether for internal or external use.

(l) Other assistance that may be required.

4. Budget.

We have found that our work-load has increased during the course of the last year. We will need a part-time office assistant for the day-to-day stuff. In the light of this we were wondering whether you would consider putting up the fee from £4,500 monthly to £5,500 - on the assumption that we try our hardest to justify this amount, and that you have the right to revise it downwards if dissatisfied. We think that we give good value for money in a business largely conducted by slysters and sharks, but you may not agree with this.