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SUBJECTS AND ACCOMPLICES: REGULATION AND THE ETHICS OF CIGARETTE ADVERTISING

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In debates on the regulation of cigarette advertising, opposition to regulation is based on a perceived threat to individual autonomy and choice. Advocates of regulation have sought to combat such arguments by focusing on the unique characteristics of tobacco: the absence of a "safe" level of consumption; that the habit is often acquired by children or young persons; that smokers are unaware of the extent of the risks involved; and that smoking is "addictive." The authors discuss the implications of these characteristics for regulation and the difficulties with such arguments. The focus on characteristics of the product means that little attention is given to the implications of the content and techniques of advertising. The dominant forms of cigarette advertising involve the communication of little product information and the use of persuasive mechanisms of which the consumer is either unaware or not fully aware. The authors explore the implications of such advertising strategies for regulation and public policy.

Attempts to reduce cigarette smoking regularly play a central role in government health promotion strategies. For example, the U.K. government's "Health of the Nation" document sets out targets to reduce the prevalence of cigarette smoking to 20 percent by the year 2000 (a reduction from the 1990 figure of 28 percent for men and 29 percent for women) and aims to cut overall cigarette consumption by 40 percent over the period 1990–2000 (1).

A central issue in such strategies has been the regulation of the tobacco industry, and within debates on regulation the treatment of cigarette advertising has played a key role. For example, the European Commission has proposed that advertising of tobacco products in the European Union be exclusively restricted to the interiors of sales outlets. Advertising regulation is an issue that has sparked a substantial empirical discussion on the relationship between advertising and cigarette consumption (for a recent systematic review of the evidence see 2). However, it also raises a range of ethical issues and there is evidence that such

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issues are playing an increasingly salient role in the politics of regulating cigarette advertising (3).

This article focuses on an important dimension of this debate, namely, whether regulation of cigarette advertising constitutes an illegitimate infringement of the autonomy of the subject. Critics of such measures have seen them as infringing autonomy because they restrict the flow of information and thus effectively limit the scope for individual choice. In this context Luik has argued, "Tobacco advertising bans . . . suppress the right to free expression in that they deprive not only speakers of the right to say certain things but also listeners of their right to hear certain things" (4).

Our article has two principal objects. The first is to consider how advocates of strict regulation have sought to answer criticisms that regulation of tobacco advertising involves an illegitimate restriction on choice. The response to such arguments has focused on what are seen as unique and specific features of tobacco as a product. The consequence of this approach is that relatively little systematic attention has been paid to the character of cigarette advertising and even less to the arguments of advertising practitioners. This leads to the second major concern of the article which is to examine contemporary practices in tobacco advertising. In this analysis reference will be made to advertising campaigns, the arguments of practitioners as they appear in the professional advertising and marketing literature, and qualitative empirical research on the impact of advertisements. The empirical material used is drawn predominantly from the United Kingdom. However, our argument is that analysis of such relatively neglected material throws new light on the general ethical debate concerning the regulation of cigarette advertising and also the public policy issues involved.

REGULATION AND PATERNALISM

Ethical criticisms of the regulation of the tobacco industry generally and of tobacco advertising in particular have centered on the claim that such regulation is an instance of illegitimate paternalism. The basis of such arguments lies in a distinction between two types of action: those that involve harm imposed on other people, and those that involve harm only to the person willingly and knowingly engaging in the activity. Regulation is claimed to be justified in the former case since here the state is protecting people. In the latter case, however, intervention would have to be justified as being for the person's "own good." This can be viewed as "wrong" because it preempts the legitimate sphere of personal choice and hence undermines personal autonomy (for a classic statement of this argument, see 5).

As applied to smoking, the argument would accept regulation in the case of passive smoking, for here individuals are being involuntarily exposed to risks. However, active smoking, knowingly and willingly undertaken, involves only a harm to the self. In this case, intervention to prevent individuals from smoking

can be viewed as "paternalist." Of course regulation of advertising does not involve a prohibition of the activity, but it is seen as limiting choice in two different ways.

First, such regulation inhibits the flow of information concerning the product. Thus, the U.K. industry pressure group, the Tobacco Advisory Council, in a response to the European Commission proposals on tobacco advertising (referred to above) cited a judgment in the Quebec Superior Court, which overturned the Tobacco Products Control Act: "Tobacco advertising is an important tool by which smokers learn about products they have a right to buy; it helps them make their personal economic choices" (6).

The second way in which choice is said to be constrained relates to arguments that controls on tobacco advertising are part of a broader attempt to prescribe lifestyles. This has been characterized as "health paternalism," in which the state promotes a "correct," "healthy" lifestyle (4). Restrictions on flows of information, including regulation of advertising, are seen as a means of eliminating forms of conduct that the state regards as unacceptable. Such views are exemplified by a full-page advertisement placed by the National Smoker's Alliance in the *Washington Times* on June 13, 1995, which included the statement "Today the 'lifestyle police' are targeting smokers but who's next?" Similarly, Phillip Morris placed an advertisement in *USA Today* (May 26, 1995) which read, in part, "To smoke or not to smoke? In this country, almost 50 million people choose to smoke. A great many choose not to. At Phillip Morris we believe people should be able to make the choice they feel is right for them."

A Unique Health Risk?

In seeking to confront such arguments, advocates of regulation have emphasized what they see as peculiarities of tobacco as a product which make it a "special case." Amongst these is the argument that the health risks posed by smoking are unique. For example, in 1992 the U.K. House of Commons Health Committee considered evidence for and against the European Commission proposals on cigarette advertising. In her evidence, Mrs. Taylor, one of the British Medical Association witnesses to the Health Committee, argued, "Tobacco is a unique product. There is no safe level of consumption of tobacco. There is a safe level of consumption of alcohol, cream cakes and even fast cars" (7).

It is important to note that this emphasis on the unique *health* risks posed by cigarette smoking only partially engages the anti-paternalistic case. By stressing the specificity of the threat to health posed by cigarette smoking it seeks to deny the claim that intervention, in this area, involves a broad-based health paternalism. But clearly, the argument does depend on accepting the premise that paternalism *in this particular case* is legitimate.

However, other arguments used by advocates of regulation are of a rather different kind. In these arguments it is not the health effects of smoking per se that

are at issue, but rather those effects examined in the context of the intellectual and ethical quality of decisions to start and continue smoking. Three aspects are particularly significant: that the decisions are often made by children and young persons; the operation of "cognitive defects" with respect to the decisions; and that they result in the consumption of an "addictive" product.

Children and Young Persons. Not even the most rigorous anti-paternalists argue that interference with or restrictions on decisions that do not cause harm to others are unjustified in all cases. There are always certain groups (although there may be disagreement about where the line is drawn) who are regarded as either not capable, or not fully capable, of judging for themselves. Amongst these groups are children and young persons.

The position of these groups has an impact on the regulation of smoking in three major ways. First, empirical research has regularly shown that a large percentage of adult smokers took up the habit as children or young persons (2). Second, using life-table methods it has been estimated that "smoking careers" are generally lengthy. In the case of men a typical regular smoker of 20 will continue smoking for a further 26 years; for women the corresponding figure is 33 years (2). Thus, a habit that a large percentage of smokers acquired as children or young persons is likely to be protracted. And third, this is given added significance in the light of connection between length of time as a smoker and increased risk of lung cancer (8). The upshot is that a significant proportion of adult smokers will have started a long-term career of smoking, with all its attendant risks, before they were in a position to maturely appreciate the full implications of the decision to start smoking.

One could therefore argue that advertising *targeted* at children and young persons should be prohibited. In principle at least, this is the policy adopted in the U.K. "voluntary" agreement between the government and the industry. The "code" includes the injunction that advertisers should take "special care to ensure that tobacco advertising or promotion does not represent a greater attraction to young people than to the population as a whole" (9). This also appears to be the position taken by the U.S. industry pressure group, the Tobacco Institute, which has publicly claimed that cigarette companies do not want children to smoke (10).

However, it is questionable whether the code, even if accepted in good faith, is operable. This is because of the difficulty of controlling the effects of advertising campaigns. In this context, Chris Powell, who has held the position of chair of the (U.K.) Institute of Practitioners in Advertising, has stated "I'm sure advertising encourages people to start smoking. Of course children are influenced—you can't just ghettoise a target audience" (quoted in 11). This argument is supported by qualitative research in the United Kingdom which has shown that "Kim," a cigarette aimed at working women in their 20s and 30s, had a strong appeal to most of the 14- and 16-year-old participants in the study and some of the 12-year-olds (12). Such findings could therefore underpin an argument for more general

restrictions on cigarette advertising and hence help ensure the intellectual integrity of the decision to smoke.

"Cognitive Defects." The quality of decisions relating to smoking is also raised in the second argument, which concerns the extent to which the risks of smoking may be systematically misperceived whatever the age of the individual. In part, such "cognitive defects" relate to the fact that, because smoking is implicated in the causation of diseases of middle and old age, then there will be numerous occasions when the individual engages in the activity with no or very limited negative health effects. This could be argued to engender an "anchoring fallacy" in which "people extrapolate from their own experience, they therefore conclude—quite reasonably but quite wrongly—that smoking is safe, at least for them" (13). Evidence appearing to support this view is provided by Slovic and coauthors (14) who report a study in which subjective estimates of mortality rates from lung cancer were around one-eighth of the actual level.

Addiction. A third distinctive aspect of the smoking decision is related to the "addictive" character of cigarette smoking. This issue raises two questions: one concerning how far it is reasonable to use the term "addiction" with respect to cigarette smoking, the other relating to the ethical implications of "addiction." The argument that smoking is addictive is based on two related claims. The first emphasizes that smoking creates a physical need (13)—the need for a continued intake of nicotine. The second is that smoking is difficult to give up, as exemplified by the evidence on the length of smoking careers discussed above.

If smoking is indeed addictive, this has important ethical implications. Critics of regulation see themselves as defending the sphere in which personal choice should be exercised. However, if smoking is addictive, encouragement to smoke can be viewed not as promoting but rather as foreclosing choice. In this sense regulation to discourage smoking might enhance rather than restrict effective choice.

The Smoking Decision: Evaluating the Pro-Regulation Arguments

The pro-regulation arguments suggest that intervention is not as antithetical to autonomy and choice as is claimed in many anti-paternalist arguments. However, they are not free of difficulties.

In the case of young smokers, if companies are unable to control the marketing effects of their own campaigns, then, indeed, it could be argued that the conditions of the exercise of informed choice would be protected by an advertising ban. However, the difficulty here is that this argument presupposes that advertising has a significant effect on consumption amongst children/young persons. Research evidence from the United States (e.g., 15) indicates that *recognition* of an advertising campaign theme is often associated with increased market share for the

brand concerned. However, this link between an indicator of the success of advertising—recognition—and market share does not necessarily have implications for overall consumption amongst children/young persons (2).

Similarly, evidence showing links between awareness and/or approval of cigarette advertising and a subsequent decision to smoke can be considered indecisive. As Smee argues, the direction of causality could, arguably, run in a different direction from that implied in the pro-regulation argument: perhaps "children disposed to smoke are more likely to react positively to tobacco advertising and show greater awareness of it" (2).

There are also difficulties in the "cognitive defects" argument. The crux of the argument is that the subjective underestimation of the risks of smoking justifies regulation of the activity. The data on which this argument is based are valid, but it raises difficulties in the context of distancing the regulationist argument from "health paternalism." For example, the study cited earlier by Slovic and coauthors (14) found not only that respondents underestimated the risks of death from lung cancer (see 16 for an alternative view) but that this was a general feature of estimates of mortality from disease. Furthermore, estimates of the risk from smoking-related diseases were by no means the most inaccurate. For example, while lung cancer was underestimated by a factor of eight, mortality from diabetes was underestimated by a factor of 25 (14). The "cognitive defects" argument would therefore appear to open the door to a more broad-based health paternalism.

Finally, the implications for a broader-based paternalism are also a potential difficulty with the addiction argument. Smoking is ambivalent since it often combines carrying on the activity while attempting to give it up (2). Smoking cessation thus imposes considerable physical and psychological costs on the individual. Yet, if this is used as the basis for regulation, it seemingly runs into the problem that many other social decisions have substantial "cessation" costs. The decision to take a job, buy a house, or marry might also involve substantial costs for the individuals if they later wish to change (16). In which case it may be difficult to "draw the line" at regulating smoking but not other social activities where cessation or change involves a variety of costs to the individual.

We have so far sought to show how advocates of regulation have attempted to combat the view that they are engaged in illegitimate abridgments of choice, and some of the possible difficulties in these arguments. Clearly the focus is on what are seen to be special features of tobacco as a product and the decision to smoke. In contrast, relatively little attention is given to the content of contemporary cigarette advertising, and the techniques of advertising practitioners are virtually ignored.

Central to the discussion of advertising amongst advocates of stricter regulation is the perceived effect on consumption. For example, in its evidence to the Health Committee the British Medical Association argued "a ban on tobacco advertising

would reduce pressures on children to take up smoking. Advertising is particularly effective in maintaining smoking as a sophisticated, grown up and socially acceptable habit" (7). And before the same committee, the pro-regulationist group Action on Smoking and Health, discussing smoking amongst minors, stated "their image of smoking . . . has been found to conform closely to the messages conveyed by cigarette advertising. Advertising is the easiest point at which to break this vicious circle" (7). In these arguments what matters is the claimed effects of advertising; *how* those effects are achieved is, at best, a secondary issue. This has meant that pro-regulationists have not, at least in a systematic way, tackled the question as to whether the *character* of contemporary cigarette advertising and the *means* that it seeks to use are themselves likely to undermine individual choice and autonomy. It is this issue that we address in the second part of the article.

THE THEORY AND PRACTICE OF CONTEMPORARY CIGARETTE ADVERTISING

To examine the relationship between advertising and autonomy we need to consider various conceptions and practices in advertising, and empirical research relating to its effectiveness. We first seek to distinguish three main types of advertising practice and look at how they have been discussed in the professional advertising literature. This analysis lays the basis for an exploration of the ethical implications of these practices, considered later in the article.

Direct Advertising

Advertising communication can take what we may call a *direct* form: the advertisement seeks to communicate claims about the product that is being marketed. Writing in the *International Journal of Advertising* in 1983 two practitioners, Judie Lannon (then of J. Walter Thompson) and Peter Cooper (then of Cooper Research and Marketing) identified such an approach as "linear sequential" (17). The "sequential" aspect relates to the idea that to achieve its effect the communication goes through a series of stages. Thus, Lannon and Cooper cite an early attempt to conceptualize this form which claims that, to be effective, a (print) advertisement must be "seen; read; remembered; acted upon" (17).

Direct advertising has two important related features. The communication makes reference to characteristics of the product or service, and thus gives product information. And, the communication requires little or no interpretation; it is relatively obvious what the "message" is. Numerous examples of advertisements, either wholly or in part, exemplify this approach. For example, many contemporary motor vehicle advertisements list a series of product features such as five-speed gearbox, airbag, one year's free insurance, etc., which are included in the "standard" price of the vehicle. The "message" is that the car is a bargain.

More prosaically, television advertising for a stain remover illustrates the product's powers through a visual demonstration, either on its own or in comparison with a competitor.

Such a form of advertising can also be found in the case of cigarettes. For example, in the United Kingdom advertisements for Rothmans' brand "Royals" have consistently emphasized that the packet contains 25 cigarettes rather than the usual 20. The clear "message" is that "Royals" are cheaper per cigarette than competitors.

However, the direct approach plays a minimal role in contemporary cigarette advertising. For example, Pollay's study of 394 cigarette advertisements published by tobacco manufacturers in Canadian magazines in 1987 found they contained negligible product information (18). They did contain government-promoted health warnings but, as he suggests, the advertisements appeared to be designed to focus the reader's eye away from such information.

Indirect Advertising

The characteristics of *indirect* advertising are that the author of the advertisement presents the communication in such a way that it is far from obvious what is being communicated—hence the recipient has to interpret the meaning or "message" of the advertisement—and that the amount of product information is very limited. Indirect advertising can be divided into two types: image advertising and cryptic advertising.

Image Advertising. The aim of this approach is to induce the consumer to identify with an *image* associated with the product. For this approach to succeed two conditions have to be met: the product must be seen as having an "image," and the image must be regarded as positive.

This form has long been used in cigarette advertising. Part of its appeal to the seller is that, by creating a "brand image," the product is distinguished from competing products and the basis is laid for gaining the economic benefits of "brand loyalty" (19; see also 20). The single most cited example of successful image advertising is that of the Marlboro advertisements featuring the association between the product and the "Marlboro cowboy." It has often been argued that Marlboro's status as the world's best-selling cigarette is largely attributable to the distinctive appeal of this campaign.

Image advertising is indirect because, without interpretive processing, the communication has little or no meaning. For example, the content of many Marlboro advertisements has been solely confined to the name "Marlboro" coexisting with a cowboy or a scene from "the West." A visually pleasant display perhaps, but one with no obvious meaning. The author of the advertisement is relying on the recipient connecting the image of "the West" (diffuse associations with "masculinity," "freedom") to the product. These Marlboro image advertisements, with

their total absence of product information, also exemplify the second characteristic of indirect advertising. On occasions the Marlboro "cowboy" advertisements did contain the text, "Come to Marlboro country where the flavor is." This could be seen as a rather vague product claim that Marlboro has a "full" flavor; but even here, the identification of "Marlboro country" relies on linking the positive image of "the West" to the product.

However, unlike cryptic advertising (discussed below), the connection is not made on the basis of deliberate reflection. For example, in attempting to characterize how such advertising functions, it has been argued that it "works by allusion, free association, suggestion and analogy rather than by literal or logical rules" (21). The object of the communication is thus "a straightforward attempt to effect a transfer of positive feelings evoked by the imagery to the product" (21).

Cryptic Advertising. Image advertising has played a central role in the selling of key brands in the United Kingdom, but it is being increasingly displaced by a second form of indirect advertising, *cryptic* advertising. As the term suggests, cryptic advertisements present the recipient with a problem or puzzle to solve. The character of the puzzle can vary, but all cryptic advertisements stand at the other end of the "information" spectrum from direct or sequential advertising.

Whilst the latter contains specific claims about a given product, many cryptic advertisements contain no text, not even the product name, and where there is text it contains no explicit product information. Such advertisements have been used for a range of products, including a number of major cigarette brands. For example, Silk Cut advertisements contain no text and thus no reference to what is being advertised; they present a series of visual "clues" such as scissors cutting through purple-colored silk, the same color used on the cigarette packet. The only indication that it is a cigarette advertisement is the government health warning and the tar and nicotine yield figures. Marlboro "reds" (full strength) has run a campaign in the United Kingdom that does not use the cowboy but presents a series of scenes, many of them "Western." For example, in one variant an empty prairie is presented; the only objects to be seen are an isolated house and a motorbike. The advertisement is in black and white, with the exception of the bike, which is the shade of red used both on the Marlboro packet and on Marlboro logos used in sports sponsorship such as motor racing. Again, the advertisement contains no text.

Unlike image advertising, cryptic advertising does require a degree of reflection on the part of the recipient. Thus, "cryptic advertising aims to draw in the consumer to share jokes, secrets or solutions" (22).

How Does Indirect Advertising Work?

The distinctions between direct and indirect advertising, and the dominant role of first image and now cryptic advertising in cigarette marketing, raise the

question as to why indirect forms have such a central position. One point relevant to this issue has already been discussed: the view of marketing academics that direct advertising does not generate brand loyalty. This may suggest the greater effectiveness of indirect forms, but does not provide an answer as to why this should be the case.

Attempts to deal with this question have been made by advertising practitioners and market researchers. These analyses can be divided into what are seen as the negative aspects of direct advertising and the related, positive aspects of indirect advertising.

On the negative aspects of direct advertising an important common theme is evident amongst professional commentators: the failure of this form to account for and control specific arguments developed by the recipient to counter the "message" of the communication, and the recipient's more generalized skeptical stance with regard to the truth of advertising communications. These failures are considered to be inherent in the form. For, as we have seen, in direct advertising the recipient is confronted with a communication in which the "message" indicating the virtues of the products or service is relatively explicit. The effectiveness of this form of communication depends on, as Lannon and Cooper argue, "an assumption of a more or less *passive* receiver, a tabula rasa on which messages are printed" (17; emphasis in original). A passive receiver would automatically accept the "message" and act accordingly. However, Lannon and Cooper, like other critics of direct advertising, start from the alternative premise, that the receiver is capable of actively processing and evaluating the "message." From this perspective there is little basis for assuming that the recipient will respond positively to the advertisement. For example, he or she might choose to test the validity of the "message." At a basic level, this might mean comparing prices; at a more sophisticated level, consulting a consumer report. Thus there is the possibility of the emergence of unsought counterarguments reducing the persuasive powers of the communication. Of course, the possibility of counterarguments is reduced if the recipient perceives the communicator to be an unbiased source of truth; however, as indicated below, this condition is not thought to prevail.

The potentiality of direct advertising to invite counterargument is a theme taken up by Bullmore (23) (at the time of writing his article in *Admap*, chairman of J. Walter Thompson). He cites the example of a caption used by the Democratic Party in the 1960 U.S. presidential election. The caption, situated under a picture of Richard Nixon, the Republican candidate, posed the question, "Would you buy a used car from this man?" This communication obviously *suggests* that Nixon was not to be trusted but does not explicitly make that claim. Bullmore argues that the communication was more effective because it was not in an explicit form, and thus did not generate resistance. In other words the explicit form might have led the receiver to counter the argument by finding examples of Nixon's trustworthiness (23).

But, even if direct advertising in any particular case does not prompt specific refutational counterevidence, it may still fail to convince. This is because, so the argument goes, the contemporary consumer is aware that advertising communications are not a disinterested exercise in information-giving (24):

> Even if a cigarette were the worst tasting brand of cigarette it would still be in the interest of an advertiser to say that it is the best-tasting cigarette. My contention, however, is that consumers are not deceived by this. Consumers are aware of this characteristic of advertising.

A related aspect of these arguments, as noted above, is that indirect forms of advertising have a positive effect. If the weakness of direct advertising ultimately lies in its failure to recognize the recipient as an active processor of the communication, then indirect forms possess a greater effectiveness because they demand the mobilization of this processing ability. A key concept used in explaining the relative effectiveness of the indirect approach is "co-authorship" (23).

The concept of co-authorship derives from the communication strategy that underpins indirect advertising. The communicator (one author) constructs the advertisement in terms of visual and verbal stimuli which, at the overt level, provide little coherent meaning. Hence, the ability of the advertisement to become an effective communication depends upon the recipient's interpretive skills: the recipient is the "co-author" of the advertisement. The appropriateness of the category of co-author will be discussed later. In the present context the focus is on the supposed positive consequences of co-authorship. Bullmore (23) argues that, in a situation where the recipient interprets the meaning of the advertisement, the meaning is experienced as the recipient's "own." Hence indirect advertising, through the mechanism of co-authorship, eradicates the source of both specific counterarguments and generalized skepticism.

This examination of the arguments of practitioners and researchers suggests a clear rationale for the use of indirect approaches to advertising: because their message is implicit, they will not run into the block of counterarguments. The reverse of the same coin is the experience of co-authorship as positive, leading the individual to identify with the product and thus to brand loyalty. However, if indirect forms of advertising do have these strengths from the standpoint of sellers and advertisers, what are the implications for the ethics of cigarette advertising?

Indirect Advertising and Autonomy

The discussion in the first part of this article demonstrated that opponents of the regulation of cigarette advertising often rested their case on the argument that such regulation restricts the flow of information. This, in turn, is relevant because of its implications for autonomy. Autonomy is founded on

respect for choice; thus, if individuals are denied information they are unaware of the scope for choice and their autonomy is not respected. There is a further corollary of this stance: if choice is to be respected then the options should be made clear.

Bearing these conditions in mind it is now possible to return to the issue of the relationship between the conditions of individual autonomy and the forms of cigarette advertising. The first striking point concerns information. Direct forms of advertising certainly do communicate product information, but this is *not* a feature of indirect forms. Product information is marginalized in image forms since the aim is to sell on the *connection* between the product and the image, not on the characteristics of the product. In cryptic advertising the process is often extended by removing any reference to product names—thus, as indicated above, determining what is being advertised is part of the puzzle.

In addition, the link between information and autonomy situates the conditions of autonomy within a process of reflection. In these conditions the individual can evaluate the information and decide on the best course of action. Yet these conditions are undercut in indirect forms of advertising. This is because the "message" of the communication has become the recipient's "own" judgment on the character of the product and is therefore beyond critical reflection and evaluation.

Furthermore, it is arguable that in image advertising not only does the indirect form undermine reflective thought, but such reflection would short-circuit the whole process. For example, in the case of the Marlboro cowboy advertisement there is an implicit connection between "rugged masculinity" and the product. Yet, such a connection, if reflected on, raises some awkward questions: How can a tobacco be "masculine"? How can Marlboro cigarettes, which are materially similar to alternative brands, be more "masculine"?

Such scope for counterargument means that image advertising relies on the suppression of reflection and, in turn, that the product is seen as other than it is. Marlboro is not materially different from its competitors and the image generates a bogus differentiation that obscures the effective choices, or lack of them, between products.

On the face of it, it might seem difficult to apply the same argument to cryptic advertising. After all, such advertising *does* invite reflection in order to solve the puzzle posed. However, a closer examination of this form suggests that it achieves effects similar to those of image advertising.

Consider a campaign run in 1992 and 1993 by the agency Lowe Howard-Spink for Imperial Tobacco's Regal brand, targeted regionally in the North of England, Scotland, and parts of Wales. Earlier in the article we referred to the voluntary code governing cigarette advertising in the United Kingdom. Advertisements have to be submitted to the Advertising Standards Authority (ASA), which determines whether they conform to the code. All the Regal advertisements were passed by the ASA, although ultimately, as discussed below, Imperial Tobacco

and the advertising agency ceased the campaign on the advice of the ASA in December 1993.

The series of advertisements featured a character called "Reg." Only Reg's head and hand appeared in the advertisements. Reg was unglamorous, balding, and middle-aged, appeared overweight, and always grinned. With the exception of the last advertisement (see below) all examples showed a hand grasping a packet of Regal cigarettes. The fingers covered the "al" letters of the brand name on the packet, thus leaving the "Reg" part visible. In a distinct location on the advertisement, Reg's face was displayed. The series included Reg's observations on various issues. Thus the earliest in the series was "Reg on Smoking": at the bottom of the advertisement Reg's comment was "I smoke 'em because my name's on 'em."

The campaign moved through Reg's philosophizing on a range of topics—issues that could be regarded as "serious," such as the exchange rate mechanism (ERM) of the European monetary system, the greenhouse effect, public transport, television. Examples were "Reg on Party Politics": "If you drop ash on the carpet you won't get invited again"; "Reg on the Greenhouse Effect": "My tomatoes seem to grow better under glass."

We can gain some insight into the mechanisms involved in this campaign by looking at a survey of its impact by Hastings and coauthors (25). The survey was significant in policy terms because its conclusion, that the Reg campaign was particularly attractive to children, was related to the decision to end the campaign.

Amongst the 11 to 15 age group in the survey, one response was to treat Reg simply as a figure of fun to be laughed *at*. This is illustrated by two respondents discussing their reactions to the advertisements: "You just laugh at them because they're so *stupid*" (boy, 12–13, smoker); "You laugh at them and *mock* them" (girl, 14–15, smoker) (25; emphasis added).

However, there was a "cryptic" character to this campaign—not just because the name of the brand was partly covered (the name "Regal" did not, with the exception of the last advertisement, appear on the advertisements), but also in the sense that the advertisements contained other puzzles. For example, three interrelated questions are raised by Reg's "stupid" humor: Can anyone be so stupid? Does Reg's stupidity confirm the "establishment," "adult," "serious" view on cigarettes that only stupid people smoke? Is it not strange that a cigarette advertisement is claiming that it is stupid people who smoke? In reflecting on these puzzles, some respondents in the survey seemed to have discovered the latent meaning of the advertisements. Namely that Reg can be seen as confronting a world in which serious issues are commented on by luminaries and as rejecting such a world in an ironic way.

This latent meaning was reflected in comments by a number of respondents in the survey. For example, the following exchange is reported: "They're [the ERM etc.] things like people are worried about . . . folks are worried about that and he [Reg] jokes about it" (girl, 14–15, smoker) (25). The interviewer

then asks "Would you be worried about things like that?" To which the response is "Oh, naw! It's older people like parents and that . . . taxes and politics" (25).

This interpretive resolution of the puzzle allowed for identification with Reg. Thus Hastings and colleagues argued that the issues which Reg discourses on "Were matters that adults, and their [youngsters'] parents and teachers in particular treated seriously but which they delighted in mocking and undermining. 'Reg' *joined* them in this game showing empathy with their values" (25; emphasis added).

Although Hastings and colleagues tended to see the campaign as having a "humorous" appeal, there are clearly two distinct mechanisms at work here. Respondents who discerned the latent meaning were not laughing *at* Reg but rather *with* him at the pretensions of the "adult" and the "serious."

Hence, as far as this latent meaning is involved, the cryptic aspect of the Reg campaign was working to achieve the objective of indirect forms of advertising. The latent meaning, precisely because it had to be interpreted, ensured that Reg was experienced as more than an advertising fiction, and also facilitated the recipient's bonding with Reg and therefore the product. Those who had "decoded" this aspect of the campaign had both solved the puzzle and found a friend: "Reg joined them." Yet, of course, this had a distorting effect similar to that achieved by image advertising. Insofar as the "solution" to the Reg puzzle was a set of "antiestablishment" attitudes, it created the same kind of arbitrary connection that image advertising facilitates. Thus, while Reg can be conceptualized as antiestablishment, Regal cigarettes cannot.

Cryptic forms of advertising can thus represent an alternative indirect mechanism. They have no off-putting direct communication that might be resisted. They allow for co-authorship, as defined earlier, and identification, and they create the distortion of a spurious distinctiveness.

One final point must be made before leaving the question of the implications for autonomy. Respect for autonomy involves not deliberately structuring the individual's choice: after all, the criticism of paternalism is based on precisely these grounds. However, a reference back to the advertising literature discussed earlier shows that it infringes this injunction because it is designed to work in a manipulative way. The focus of arguments cited from the professional advertising literature concerns ways of presenting a "message" so that it is less likely to be resisted. The manipulative character of this process is well captured by Bullmore: "It is very expensive indeed to attempt to 'bully the audience into acceptance'. It is far cheaper to 'entice into mental collaboration'; to rule your subjects by turning them into accomplices" (23). It is because of the manipulative character of indirect advertising that we queried the appropriateness of the term "co-authorship" to describe what is occurring. Co-authorship embodies the

idea of equal responsibility in the creative process. In the strategy of indirect advertising, however, recipients are led to a conclusion which they embrace as their own.

Thus the conclusion of this second part of the article is that the dominant, indirect, forms of cigarette advertising infringe the autonomy of the recipient and, indeed, are designed to infringe that autonomy. Inescapably the mode is associated with lack of product information, the suppression of critical reflective thought, and the generation of spurious distinctions between similar products.

CONCLUSION: SOME IMPLICATIONS FOR PUBLIC POLICY

The argument developed so far has sought to demonstrate that the claim that regulation of cigarette advertising is an infringement of individual autonomy is problematic. Such a claim depends on advertising taking the "direct" form. In this conclusion our aim is to examine some potential implications for public policy in this area.

An interesting example is thrown up by one feature of the current "voluntary" agreement between the British government and the tobacco industry. The agreement specifies that health warnings and tar and nicotine yields appear on advertisements. This can be seen as a form of direct counter cigarette advertising which is explicitly communicating the threat to health.

Discussions on the effectiveness of health warnings tend not to question the direct form these communications take. The focus is on the area of space in the advertisement given to the health warning, the boldness of the print, whether the warning is placed on a contrasting background, the content of the warning, etc. (13, 26). However, our analysis would question the effectiveness of the direct health warnings relative to the more indirect forms of communication embodied in that part of the advertisement devoted to cigarette marketing. This issue is evident in the Reg campaign. As indicated above, the earliest example, "Reg on Smoking," contained the comment "I smoke 'em because my name's on 'em." This could be seen as a banal and "stupid" rationale, yet it also lends itself to "decoding." Thus, again, the comment can be seen as a rejection of the antismoking position. For example, two respondents in Hastings and coauthors' survey reacted as follows to this aspect of the Reg campaign: one interpreted it as meaning "These adverts are saying 'smoke if you like' "; the other said "It's like revenge, like you're getting back on them saying to you 'Don't smoke.' . . . You feel you're allowed to when you see that" (girls, 14–15, smokers) (25). According to the theory of co-authorship this interpreted "message" will necessarily outweigh the direct health warnings.

It could therefore be argued that conventional direct health warnings take on advertising campaigns, such as the Regal advertisements, on an uneven playing field. Furthermore, although the effects of other campaigns have not been tracked with data of the character of those generated by Hastings and coauthors, this is most likely not an isolated case. For example, one of the Marlboro "red" advertisements featured a short-haired young man in a white T-shirt, pictured with his back to the camera. Like other advertisements in the series, the picture is in black and white, except for one area: the man's neck, which is "Marlboro" red. The young "red neck's" back is above the health warning. As with the Reg campaign there is a possible latent meaning here; the implicit message can be that this young man is turning his back on the health warning, the sign of paternalism and the "nanny state." The aim may well be to overcome the explicit and direct health warning with this "co-authored" message.

These issues have broader implications for the regulation of advertising since they raise the question of whether the ASA is sufficiently aware of the mechanisms involved in contemporary advertising. For example, the Reg campaign was stopped after a complaint from the Health Education Authority, based on the Hastings and coauthors' research cited above, that it appealed to young people. The ASA did not uphold the complaint, but nonetheless it advised Imperial Tobacco and the agency to cease the campaign. After the company and the agency agreed to withdraw the campaign they produced a final advertisement. This took a seemingly different form from those used earlier. It did not include the Reg face but featured the text, "A farewell address" and showed a suitcase with the tag "Dunadvertisin, Bognor Regis." The ASA approved the advertisement on the grounds that "it did not contain the key character *or his type of humour*. We thought it was an acceptable way of signing off the campaign" (27; emphasis added). However, the analysis undertaken above would indicate that this swan song was consistent with the cryptic themes of the overall campaign. The campaign had been targeted away from the south of England, the home of the "establishment" to which Reg was opposed—but to which he was now being forced (Bognor Regis, on the south coast). "They" had ended Reg's campaign just as "they" were telling you not to smoke. The regulation of cigarette advertising seems divorced from an understanding of the practices involved. The regulators, too, seem to be unwitting accomplices.

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