ROGER AWARD 2008

FOR THE WORST TRANSNATIONAL CORPORATION OPERATING IN AOTEAROA IN 2008

Winner | British American Tobacco NZ Ltd

Organised by:
Campaign Against Foreign Control of Aotearoa (CAFCA) & GATT Watchdog

Statement of the Judges' Decision for 2008

Winner
British American Tobacco NZ Ltd

Runner Up
Rio Tinto Aluminium NZ Ltd

Accomplice
Business New Zealand

Judges
Geoff Bertram
Brian Turner
Bryan Gould
Cee Payne
Christine Dann
Paul Corliss

There were eight finalists for the 2008 Roger Award, all richly deserving to be put in the public spotlight as transnationals whose behaviour fell under one or more of the Award's four headings - economic dominance, damage to people, damage to the environment, and political interference. There are no particular weights attached to the four criteria, which left the judges facing some difficult trade-offs in making their final choice amongst the top three:

- runner up Rio Tinto's outrageous exercise in political blackmail before the Parliamentary Select Committee on the Emissions Trading Bill in May 2008 – the year's most conspicuous piece of **political interference**
- ANZ-National Bank's **damage to people** by needless outsourcing of 3,000 jobs, and shonky investment advice followed by the decision to drop overboard the investors it had conned into placing their money with its subsidiary ING
- eventual winner BAT's longstanding and persistently high scores across **all four criteria**.

If there was a common theme running through the 2008 finalists it was damage to people; only eventual runner up Rio Tinto escaped condemnation on this count. Evidence showed

Telecom, Infratil and Contact Energy ripping customers off; ANZ-National fleecing small investors of their wealth; Infratil, McDonalds and ANZ-National Bank mistreating their workers; GlaxoSmithKline exposing users of its thyroid drug to severe adverse reactions; and British American Tobacco profiting from a product that kills people on a grand scale.

Running through the field, starting with the also rans:

McDonald's

This worldwide purveyor of fast food attracted attention (and nomination for the Roger) during 2008 for paying even lower wages than its competitors, manipulating shift rosters to punish workers, sourcing so-called "sustainable" coffee from a supplier without fair trade credentials, and backing anti-union behaviour by its franchisees. In September an employee of the Kaiapoi branch of McDonald's was awarded $15,000 by the Employment Court for being constructively dismissed after she joined a union. A month later another employee at the same branch was forced to finish her shift after having her foot run over in the drive-through. Faced with a rising tide of protest over wages and working conditions the company's head office hid behind its corporate structure and shifted responsibility to its franchise holders. The judges agreed that McDonald's, as a major employer, is a major exploiter of young New Zealand workers. It has a dominant presence (along with Restaurant Brands) in the junk food market; it generates litter which degrades the urban environment; and it claims credit for serving "sustainable" coffee while refusing to assume fair trade responsibility for the welfare of the ultimate suppliers. As a typical transnational that puts profit ahead of people and seeks to curtail workers' rights, McDonalds is a worthy finalist. But it lacked the star quality of ugliness that is required to win the coveted Roger.

GlaxoSmithKline

In 2007 GSK was a finalist in the Roger contest on the basis of its Ribena scam, exposed by two Kiwi schoolgirls. In 2008 the company was back in the running for the suffering imposed on hundreds, and probably thousands, of New Zealand hyperthyroidism patients by its unilaterally imposed July 2007 change in the formulation of its drug Eltroxin. The change was not clearly notified to users, and the medical profession was evidently mystified by the wave of adverse symptoms triggered by the change. The switch increased GSK's profits from its Pharmac monopoly, leaving the public health system to carry the costs. As the New Zealand Thyroid Association noted, "with the introduction of GSK Eltroxin an extra burden has been placed on all aspects of the public health system. Those now unable to work are neither productive nor contributing with their usual tax dollars to funding our public health system".

Roughly 70,000 New Zealanders take Eltroxin, and throughout 2008 the consequences of the change were coming to light. By September 2008 Medsafe reported that over 1% of users (746 people) had reported adverse reactions to the new formulation. Other sources gave figures of well over 1,000 people. GSK refused to provide an alternative formulation, claiming that the previous version of the drug was no longer in production. No explanation for the adverse reactions was forthcoming, and GSK's public relations team tried to "spin" its way out of trouble by shifting the blame onto patients' mistakes and "concern caused by public awareness". Patients were for a long time unable to change to an alternative, because GSK had the monopoly of publicly funded thyroid medication until the Government finally pushed through approval for two competing drugs at the end of the year. [No evidence was available to the judges on whether GSK had lobbied against approval of its competitors' products.]

The story is unedifying, not least because of GSK's response: washing its hands of responsibility – not untypical for the transnational drug industry (see below on British American Tobacco!). The main mitigating factors are absence of evidence of malice (as distinct from simple pursuit of profit via cost savings) in the company's motivation for switching manufacture of Eltroxin to a different country and formulation; and the fact that the eventual outcome was the loss by GSK of its monopoly position in the local market for publicly funded thyroid drugs.

Infratil

This transnational began as the investment arm of Wellington-based merchant bank Morrison and Co, and has built up a portfolio of utility and infrastructure companies, including its New Zealand Bus subsidiary which enjoys a dominant position in bus services in Wellington, Auckland and Whangarei. The company earned its position as a finalist by three activities during 2008: exploitation of the travelling public via gouging on its fares and services in areas without competing providers; exploitation and intimidation of its bus drivers, culminating in a lockout in Wellington in September 2008; and political interference via a campaign against the Public Transport Management Act.

Profiteering, anti-union behaviour, evasion of information disclosure (especially with respect to the profits from ratepayer subsidised transport operations), and anti-competitive practices make Infratil a typical transnational, notwithstanding its New Zealand origins and substantial local ownership. But it was judged to be in the bunch, not a leader, in the Roger contest.

Telecom NZ Ltd

The 2007 winner of the Roger Award was back in 2008 with more of the same conduct: a focus on profits for shareholders at the expense of Telecom's customers and competitors. Service quality and new investment performance remained poor while executives collected fat payouts and bonuses. Rural copper wire networks continued to decay, with net investment far below the level required to honour the company's obligations under the Kiwi Share. Line rentals continued to rise, and captive customers in areas without competing suppliers continued to be charged at monopoly rates. Poor service was epitomised by the Geraldine vicar who was left without a phone for three weeks because Telecom "did not know where the house was" (*Press*, 30/4/08); by the Commerce Commission study of broadband service that ranked Telecom last out of 13 companies in Auckland, Wellington and Christchurch; and by the subsequent Consumer NZ study that gave Telecom Xtra bottom place among Internet service providers (*Press*, 14/11/08).

Under its new supposedly friendlier Chief Executive Officer, Telecom continued to obstruct and subvert New Zealand's regulatory machinery, playing a leading role in the lobbying campaign to have Commerce Commission decisions made subject to wide ranging appeal in the courts. Obstruction of open access for competitors following local loop unbundling shifted from the lost battle over telephone exchanges to the new roadside cabinets which were designed to restrict access to a single competitor.

Meantime prices for telecommunication services in New Zealand remained among the highest in the Organisation for Economic Cooperation and Development, and the company pressed ahead with plans to outsource 400 call centre jobs to the Philippines.

Contact Energy

Contact is another regular contender for top honours in the Roger Award and 2008 was no exception. It is one of New Zealand's leading electricity generators and one of the country's largest listed companies. It attracted media attention during 2008 for its massive unjustified price increases to electricity consumers in October, at the same time as the company's directors sought to have their fees doubled to a total pool of \$1.5 million. As owner of major hydroelectric assets the company stood to profit from the dry winter, no thanks to any actions by the board.

Besides price gouging its customers, Contact was cited for a deceptive promotional campaign in Christchurch earlier in 2008, which misled potential customers by quoting prices exclusive of GST in comparison to GST-inclusive prices for its competitors; and for pushing ahead with an unpopular proposal to construct a liquefied natural gas terminal at New Plymouth.

Contact secures profits of around $300 million per year and has fattened these over recent years by repeated price hikes ahead of the rate of inflation. In 2004 it secured the runner up slot in the Roger contest, partly because it had been caught out falsely attributing price hikes to increased lines costs.

In its behind the scenes lobbying and manoeuvring, Contact has been a major contributor to the failure of electricity sector so-called “reform” to deliver lower prices or better service to the New Zealand economy.

ANZ-National Bank

The four Australian-owned banks that dominate New Zealand’s financial sector have played a leading role in bringing the global crisis to New Zealand, first triggering and promoting a potentially unsustainable boom in home mortgage indebtedness to fund high consumption, and then racing to unload their risk exposures (created by imprudent offshore funding) onto New Zealand taxpayers, via Government guarantees on wholesale as well as retail deposits.

Evidence presented to the judges portrayed ANZ-National as the most rapacious, inept and irresponsible of the banks over the past couple of years, which assured it a good chance of securing the Roger Award. This bank was a distinguished finalist in 2007 also, for its despicable role in the saga of Godfrey Hirst and the Feltex carpet business.

The bank collects a $1 billion annual profit, or $250 per head from the New Zealand population of 4 million. Along with the other offshore-owned banks it has engaged in massive tax avoidance by “structured finance deals that IRD argues were devoid of commercial purpose other than to avoid tax” (*Press*, 16/4/08). Basically the deals involve making loan transactions between institutions in ways that shift their costs and revenues around. It has been outsourcing jobs to India. During the boom, it was conspicuous among the banks for the incentives and pressure applied to its staff to drive customers ever deeper into debt. It has consistently ranked at or near the bottom in customer (dis)satisfaction surveys. As the largest of the banks it epitomises the dominance of overseas institutions in the local financial sector, although its market share is not great enough to make it dominant on its own.

The key charge against ANZ-National in 2008 was its reckless promotion to its banking customers of two investment funds run by its subsidiary ING NZ Ltd, which were then frozen, imprisoning $520 million of small investors’ money (*Press*, 29-30/3/08). The bank ducked responsibility on all fronts – for giving shonky advice, for misrepresenting ING as “low risk”, for failing to bail out its subsidiary to avoid the need to freeze funds, and for continuing to collect advisor fees during the freeze. While keeping the funds frozen, ING then announced a profit of $36 million (*Press*, 3/7/08). As a comprehensive case study of the rapacity and unconscionable behaviour at the expense of ordinary investors that have brought the reputation of Wall Street and its local clones to a new low, the ING saga stacks up well. ANZ has also been a central player in the Opus Prime insolvency in Australia, where again small investors were fleeced while the bank initially concealed crucial information and then looked after itself when the crash came (*Press*, 26/4/08; *Australian Financial Review*, 1-2/11/08).

Only after the Banking Ombudsman became involved did ANZ-National begin paying off a few individual victims caught in the ING affair, “on a goodwill basis”. “Goodwill” in this context seems to mean good public relations rather than any real relief for the majority of burned investors.

Typical of ANZ-National’s approach to misinforming the public about investment opportunities was the $80,000 fine imposed on it in mid-2008 for grossly misrepresenting the odds in a Bonus Bonds promotion: “The ad represented that people buying bonds before December 31, 2006 and keeping them until

January 31, 2007 would be in a draw to win $1m, and $550,000 towards a bach. But the winner got to choose from 100 envelopes with only one having the big prize. The other envelopes had $10,000" (*Press*, 22/7/08).

Buttressing the case against ANZ-National was evidence from Finsec (the staff union) that the bank's management lied to staff and customers when it promised to increase branch staff numbers while outsourcing 500 back office jobs to India; the bank subsequently announced sweeping cuts in branch staffing (*Press* 12/4/08 and 26/9/08).

Only truly distinguished performances by two other contenders saved ANZ-National from the Roger this time around.

Rio Tinto Aluminium NZ Ltd

Rio Tinto (formerly Comalco NZ Ltd) is familiar to Roger Award aficionados as operator of the Bluff smelter and beneficiary of a cut price electricity supply that absorbs over 15% of New Zealand's total generation. The smelter owners long ago perfected the art of blackmailing politicians into supporting the electricity subsidy by threatening to close down Southland's main manufacturing industry, but they took political interference to new heights in May 2008 when the familiar threat was deployed in an attempt to block the Labour government's proposed emissions trading scheme.

Chris Trotter, in his *Dominion Post* column (16/5/08), put it very succinctly:

"Once again the masks have slipped. Once again we have caught a glimpse of the true faces of our masters. Once again, New Zealand's acute vulnerability to the power of vast transnational corporations has been brutally revealed.

"As an exercise in raw economic coercion, Rio Tinto's submission to the Parliamentary Select Committee scrutinising our Government's proposed emissions trading scheme was chilling. Ranged before the elected representatives of the New Zealand people were the appointed representatives of one of the world's largest and most profitable corporations….. In its current form [the Rio Tinto Asia/Pacific president] explained, the ETS posed a threat to the economic competitiveness of the Bluff aluminium smelter's production. Rio Tinto could not, therefore, guarantee the smelter's long term future if the Government's scheme (in its present form) was permitted to proceed. And that was that".

With this single act of political intimidation, Rio Tinto vaulted into the lead bunch of Roger contenders, and has been rewarded with runner up status.

British American Tobacco

BAT has been a Roger Award finalist year after year. Its product kills 5,000 people every year and ruins the lives of tens of thousands. Its impact on the environment via air pollution and litter is part of the daily experience of urban dwellers. It perennially refuses to take responsibility for the social and economic consequences of its activity, while maintaining a major public relations effort to subvert the efforts of the New Zealand government to reduce cigarette consumption in the community. Its persistent subversion of efforts by Government and health professionals to reduce tobacco use marks it out as a conspicuously bad corporate citizen. In 2008 the judges decided that the cumulative weight of evidence against BAT sufficed to tip the balance.

Much of the evidence presented to the judges in 2008 highlighted the role of BAT's spin machine. A $300,000 donation to the organisation Keep New Zealand Beautiful, plus repeated press statements emphasising compliance with legislation and "working with" the Government, form part of a determined PR strategy of projecting the image of social responsibility while the company goes on pushing New Zealanders into a lethal addiction.

Behind the façade, BAT pays rebates to retailers that stock its products, in contravention of the Smoke-free Environments

Act 1990. It provides “power-wall” display cases that make cigarettes prominent among the goods stocked by stores and effectively nullify the legal ban on cigarette advertising. It promoted so-called “light” and “mild” brands until stopped by a Commerce Commission ruling that they contravened the Fair Trading Act (*Press*, 25/9/08). Its current strategy includes plans to introduce “smoke-free” (but still addictive and cancer-causing) cigarettes to the New Zealand market.

One striking example of political PR in 2008 that was brought to the judges’ attention was the role of the tobacco industry’s front organisation, the New Zealand Association of Convenience Stores (NZACS), in lobbying against a ban on the power-wall cigarette displays. The Association has no independent small retailers among its membership, which comprises mainly petrol station stores and a board that includes heavyweight representation from BAT and Imperial Tobacco (NZ) Ltd.

The accompanying financial analysis by Sue Newberry sets out the company’s use of greenwash to dress up its volume and profit aims in the language of social responsibility.

As the 2007 *Judges’ Statement* said, in listing BAT as runner up for the Roger:

“Yes, it’s legal. Yes, we have been warned. And … a clear line can not be drawn between tobacco and other dangerous legal products (fast food, alcohol, anti-social media products), as a problem for regulators. However smoking is responsible for more preventable deaths than anything else, and BAT is the worst culprit in New Zealand. The difficulties for regulators do not absolve BAT from its profiteering at the expense of individual and public health”.

BAT has a long history as a Roger finalist and was declared the runner up in 2000, 2003, and 2007. Comments from earlier judges’ reports continue to apply with undiminished force:
“BAT continues the trend of tobacco companies peddling an addictive, destructive product while trying to appear ‘community minded’. In reality, BAT is deliberately and knowingly killing our fellow citizens for profit. It is also promoting consumption of this addictive and deadly product, particularly to image-conscious teenagers…. BAT is a destructive corporation - parasitic upon the human community in all respects” (2003 *Judges’ Statement*)

“Reliable estimates … show that 101 New Zealanders die each year from exposure to smoke in the workplace ... BATNZ blames deaths and illnesses on individual choice despite nicotine’s addictive qualities. The company continues to lobby against health warning labels on cigarette packets” (2005 *Judges’ Statement*)

“For lifetime bad behaviour BAT rates highly on most Roger criteria. Its 75% market share makes it a dominant industry player (although this is one product we wouldn’t like to see go down in price), it profits from a product that will kill 50% of its customers, it adds further misery to its target markets in the form of ill health and the high cost of addiction. It finds every loophole it can to promote its brands” (2006 *Judges’ Statement*).

It has been a long time coming, but BAT’s perennial greenwash hypocrisy, its confusion of addiction with “choice”, its repeated avoidance and subversion of government efforts to reduce smoking, and its profiteering at the expense of the health of New Zealanders whilst its products impose vast costs on the public health system, have at last earned it the ultimate accolade. BAT takes out the Roger Award for 2008.

Accomplice Award:
Business New Zealand

One nomination for the Accomplice Award came before the judges. It cited Business New Zealand and its Chief Executive Officer Phil O’Reilly for relentless lobbying in favour of the policies of deregulation, privatisation and union bashing that are music to the ears of transnationals’ management. The specific statements by Mr O’Reilly that were placed in evidence – particularly relating to free trade agreements – were only tangentially related to the depredations of transnationals within the New Zealand economy. The judges, nevertheless, decided that Business New Zealand and Mr O'Reilly merit an Accomplice Award for their major PR contribution to sustaining the New Zealand government's spineless record on non-regulation of monopolies and failure to control foreign investments into key sectors of the local economy.

2008 Roger Award Report

British American Tobacco
BAT New Zealand

Historically, tobacco smoking has held, along with beer and racing, a hold over a significant proportion of New Zealand society. So much so, that when then Finance Minister Arnold Nordmeyer's 1958 Budget increased taxes on tobacco, it was labelled "The Black Budget" by then Opposition Leader, Keith Holyoake. Holyoake also went on to comment that price increases on tobacco and beer would lead to increases on both products and was an attack on the right of the ordinary person to enjoy these pleasures. He also intimated that they were increased as a consequence of Nordmeyer and Prime Minister Walter Nash being non-smokers and non-drinkers. A substantial section of the New Zealand public agreed with Holyoake and Nordmeyer's "Black Budget" went down to infamy as the budget that penalised the simple joys of the working man.

Fortunately, New Zealand has become a far more enlightened place since 1958 with the introduction of laws governing the placement, publicity and access of and to, tobacco. Since 1990, the Smoke Free Environment Act has banned smoking from most workplaces and public areas. In 2004 the Government went further, banning cigarette smoking in bars, restaurants and nightclubs, despite the opposition of the hospitality industry and the smoking lobby.

These changes in legislation, combined with a more disdainful attitude by the public toward smoking, have led to a decline in smoking rates. As reported in the 2006 Census:
"In 1971, 39.6% of men were regular smokers compared with 31.7% of women. By 1996, male and female smoking rates had almost converged; 22.8% of all women aged 15 and over were regular smokers compared with 24.8% of men". [1]

Always the Bridesmaid and Never The Bride

The decrease in the numbers of people smoking has been despite the efforts and lobbying of the smoking lobby and in particular, the winner of the 2008 Roger Award, British American Tobacco New Zealand (BAT NZ). When BAT (NZ) was first nominated in 2000, the *Judges Report* noted that:
"The whole tobacco industry richly deserves the opprobrium it receives for attempting to recruit young people, and particularly young Maori, to smoke this addictive and harmful drug to replace the profits from those wisely giving it up. The industry also continues its propaganda campaign which pretends that tobacco's harmful effects are less than the evidence clearly shows".[2]

"Always the bridesmaid and never the bride" could well be the comment made about British American Tobacco in relation to the Roger Award. It has been a finalist every year (bar one – 2004) since it was first nominated in 2000. It was a Roger Runner Up in 2000, 2003 and 2007 but was always being pipped at the post by a far more loathsome company. But, finally it is the turn of BAT (NZ) to walk down the aisle and embrace Roger.

The 2008 *Judges' Statement* referred to BAT (NZ)'s previous finalist status. They noted BAT (NZ)'s devastating effect on the lives of thousands of New Zealanders through its impact on the environment via air pollution and litter as well as its "perennial" neglect to take responsibility for the social and economic consequences of its activities. The Judges observed that while BAT touted its social responsibility through public relations exercises on the one hand, it lobbied hard to subvert legislation and regulation on the other. "Its persistent subversion of efforts by Government and health officials to reduce tobacco use, mark it out as a conspicuously bad corporate citizen. This year the Judges decided that the cumulative weight of evidence against BAT sufficed to tip the balance". [3]

British American Tobacco Plc: The Octopus And Its Long Tentacles

To better understand the actions of BAT (NZ), one needs to get an understanding of the recent practices of its parent company BAT (Plc). George Monbiot, a columnist for the UK *Guardian*, labelled British American Tobacco as "morally dubious" in an August 2005 article for the paper.[4] Monbiot's column was principally about the connection between UK Conservative Party front bencher Kenneth Clarke and BAT. However, the article helped to reveal the company's strategy in the developed and developing world.

According to BAT(NZ)'s 2007 *Social Report*, BAT is "the world's most international tobacco group, with its brands being sold in 180 countries, and market leadership in 50 of those countries. Of which New Zealand is one".[5] Monbiot noted in his column that due to the increased emphasis by local and central Governments in developed nations to restrict or halt smoking, international tobacco firms were facing declining profits. Therefore, BAT's strategy was to 1) halt this decline in sales and 2) to concentrate its efforts on developing nations.

It appeared that Clarke as part of the BAT executive was involved in BAT paying middlemen up to £250,000 a year to lobby countries to reject international attempts to put stronger warnings on cigarette packs, lower the levels of tar and nicotine and increase taxes (there were also allegations made as a result of documents which were discovered, that BAT was actually actively smuggling its products to undermine attempts by national governments to discourage smoking).[6]

In a 2008 BBC2 documentary, Duncan Bannatyne (millionaire host of British TV's *The Dragon's Den*) travelled to Africa to discover why many African children were taking up smoking. His investigations revealed the significant involvement of British American Tobacco. The documentary further revealed BAT's unethical use of targeted marketing to promote sales. This marketing was so unethical that it appeared to violate BAT's own company code of ethics and standards (a copy of the documentary is available to watch on Google video). [7]

The line taken by Clarke, BAT (Plc) and BAT (NZ) is that the company is a "good corporate citizen". In its defence, BAT notes its commitment to "good corporate conduct", "mutual benefit and responsible product stewardship". BAT (NZ) may further contend that it should not be bound by the actions of BAT (Plc). However, the reality is that many of the actions taken by its parent company to increase its market share are also undertaken (on a smaller scale) by its New Zealand subsidiary. As is noted in the ASH publication: "Trust Us: We're Socially Responsible" by Dr George Thompson:
"…the distinction between the British American Tobacco parent company (BAT Plc) and its branches is one of legal structures, rather than real independence. BAT (NZ) is wholly controlled and owned by the British American Tobacco parent company, which is legally based in Britain. BAT (NZ) is a tentacle of the BAT octopus. BAT (NZ) social reports are the product of directions from the parent company". [8] If BAT (Plc) has a "morally dubious" record, it is one that is shared by BAT New Zealand.

The Antipodean Tentacle: BAT New Zealand

In line with the actions and strategies pursued by its parent company, BAT (NZ) is also involved in actively targeting and marketing its products toward the poorer sections of the community, lobbying to reduce restrictions that prohibit it plying its trade and using middlemen to promote its product, while it stays safely in the background. Like its parent company which sponsors sports events and cultural organisations such as the London Symphony Orchestra, BAT (NZ) also uses sponsorship of various groups and charitable trusts to promote an image as a good corporate citizen.

It is this image as a good corporate citizen that BAT (NZ) is keen to communicate to the public through its *Social Reports* and media releases. BAT (NZ)'s opinion of itself is nicely summed up in the Introduction to its 2007 *Social Report* by its Managing Director, Peter Henriques:
"Our Business Principles and Guiding Principles guide us as we progress on our Corporate Social Responsibility journey and form an internal measure of our performance and behaviour as a corporate entity.

"The *Report* shows how we are translating our vision and commitment into a tangible community contribution. We are dedicated to contributing positively to the community in which we operate and seek open engagement, participation and partnership…" [9]

However, the reality of the situation is different to that vision presented by Mr Henriques and BAT (NZ)'s spokespeople. It is this reality that the judges have concentrated on in terms of their decision. After all, it takes more than charitable sponsorship to redeem oneself for marketing and selling a product that kills approximately 5,000 people in New Zealand annually.

As Dr Thompson states in his report debunking BAT (NZ)'s *Social Report*, the New Zealand tobacco industry (and its overseas counterparts and parent operation), has a standardised strategy to convince the public of its good intentions. It uses themes to build and then maintain its credibility within society. These themes include: (i) "Good works" and economic contribution (ii) a public stance against youth smoking; and (iii) "social responsibility activities"[10]. This allows BAT (NZ) to build up contacts and networks in the community and in local and central government from which it can "provide information sources, provide friendly or at least familiar contacts when contact is useful, and to blunt company image problems by the use of charming, personable and intelligent front people".[11]

While the tobacco industry is publicly trying to maintain that it is a responsible corporate citizen, it is actually undertaking activities that are the opposite. Appearances can be deceptive.

Through The Looking Glass

The Roger Award judges in their 2000 *Report* commented that what singled BAT (NZ) out from other tobacco companies, such as Imperial Tobacco, was its virtual market dominance. Since late 2000, after its international merger with Rothmans, BAT has had a monopolistic position in the New Zealand tobacco market. Yet even prior to the Commerce Commission giving its blessing to the merger, the company flouted the legal process by operating virtually as one company.

It is this dominance that has allowed BAT to press ahead virtually unchallenged with its morally dubious strategies in New Zealand. Faced with a declining market for tobacco sales, it has concentrated on marketing itself to specific sections of the community, such as Maori, Pacific Islanders and youth. While claiming that it adheres to Government legislation and regulation, it has spent time and money actively undermining the same legislation.

The Victims

The effects of smoking are borne by the entire community either individually or collectively. Much money is spent on health services to combat and cure the diseases that smoking creates. BAT (NZ) claims that it is committed to "reducing harm" from its odious product.
"We believe that with smoking there are real risks of serious diseases such as lung cancer, respiratory disease and heart disease ".[12]

However, this is an understatement about the seriousness of the issue. A Ministry of Health Report noted the high health risk for New Zealanders who smoked. It estimated that tobacco smoking killed between 4,300 and 4,700 New Zealanders annually. In addition, smokers or those who die of a smoke related injury lose an average of 14 years of life compared with non-smokers. It has also been estimated that approximately 388 New Zealanders will die each year from exposure to second-hand smoke.[13]

As noted previously, according to Statistics New Zealand, the rate of women smoking has increased from 1971 to 1996. In 1971, the number of women who smoked was 31.7% as opposed to 39.6% for males. In 1996, the percentages had converged with 22.8% of women smoking compared with 24.8% of men. Hand in hand with the increase in smoking rates was an increase in female lung cancer, with lung cancer mortality rates increasing by 36%, from 14.3 deaths per 100,000 people in 1986 to 19.4 deaths per 100,000 people in 1995. The report notes that "…although males are still more likely to die from lung cancer than females, the gap between the sexes has narrowed over the last decade".[14]

The death rate from smoking is significantly higher amongst Maori. ASH New Zealand estimates that a third of cancer deaths among Maori are from lung cancer which is 3.7 times the non Maori rate. Maori women are more at risk than Maori men with 50% of Maori women continuing to smoke and 80% continuing to smoke during pregnancy.[15]

In 2006, Associate Professor Tony Blakely from the University of Otago's Wellington School of Medicine and Health Science, wrote in the medical journal *The Lancet* that there were approximately 2,000 deaths a year among approximately 100,000 Maori aged 45-74 in the 1990s. 400 Maori and 275 non-Maori could be saved if New Zealand went smoke free. Professor Blakely asserted that;
"Making New Zealand smoke-free will be win-win, preventing a significant number of deaths among all ethnic groups and substantially reducing ethnic inequalities in death rates. It's a policy no-brainer".[16]

The Deceiver

BAT (NZ) has mentioned in its *Social Report* that people often have difficulty stopping smoking.[17] Later in this section in a subsection labelled, *Harm Reduction* it notes that
"We believe that the only way to avoid the risks of smoking is not to smoke and the best way to reduce the risks of smoking is to quit.

"We acknowledge that there are real risks of serious harm to health presented by smoking. That is why we consider it important to pursue strategies and products that help reduce that harm. Snus, a Swedish style smokeless tobacco, is a potentially reduced risk tobacco plant.

"Currently, New Zealand legislation forecloses on the opportunity to introduce smokeless tobacco products to the local market. We have, however, been engaging with government stakeholders to better understand the potential role of smokeless tobacco in New Zealand".[18]

Basis on the previous evidence, there appears to be no desire by BAT (NZ) to reduce harm. Therefore, one can assume that this is simply a cynical proposal to capture another section of the market. There are a number of smokeless tobacco products presently on the market. The most common of these is chewing tobacco. However, despite the fact that it is "smokeless", it is as deadly and addictive as its smoking counterpart.

The smokeless tobacco (Snus) that BAT (NZ) is referring to as a "potentially reduced risk" is a form of snuff. Presently, it is outlawed in the European Union due to a 1985 World Health Organisation report which classed it as being possibly carcinogenic to humans. The New Zealand Ministry of Health undertook a review of Snus in 2007 and concluded that while it was lower in nitrosamines, the cancer causing agents found in tobacco products, that "there are still many unanswered questions about its long term safety and the role it might play - if any - in reducing smoking".[19] The Ministry of

Health concluded that it had no intention of lifting the ban against modified smokeless tobacco products.

A similar step of cynical propaganda by BAT (NZ) occurred with the branding of "mild" and "light" cigarettes. The cigarettes were claimed by the tobacco industry to be safer for smokers due to their lower yield of tar (12 milligrams of tar or less). However, the Commerce Commission found that this was deceptive as the smoking behaviour of people changed when they smoked "light" or "mild" cigarettes. Often people inhaled more deeply, used filters differently or smoked more cigarettes to get the same buzz as they would from a "standard" cigarette. The Commerce Commission concluded that the terms "light" or "mild" were deceptive and a possible breach of the Fair Trading Act. The Commerce Commission Director of Fair Trading, Andrew Sparrow, commented:
"The bottom line is that smoking causes many diseases, including cancer. There is no such thing as a safe, or safer cigarette. If you smoke 'light' or 'mild' cigarettes believing these to be less harmful to your health then you are probably fooling yourself".[20]

But, probably the most deceptive of all, is BAT's avoidance in relation to the addictive nature of its products. BAT has consistently dressed up cigarette smoking as a person's "choice" or "right". However, medical studies on tobacco products constantly reveal that there is no choice in smoking as people become increasingly addicted over time. In a new study it was noted that US smokers were more addicted to nicotine now than they were two decades ago.[21] Dr George Thompson notes that the use of the term "choice" is commonly used by BAT (NZ) to provide credibility to its description of consumers as being rational and informed individuals while denying or downplaying the addictive properties of tobacco. BAT claims that while there is an "understanding of nicotine addiction". Most smokers continue to smoke because they want to.[22]

The Front Men

Internationally, BAT has used middlemen or companies to lobby and act on its behalf. In New Zealand, it has done so through organisations such as the New Zealand Association of Convenience Stores (NZACS). NZACS hit the headlines in 2008 when it informed Parliament's Health Select Committee, which was considering proposals to ban retail tobacco displays, that retailers received incentives from tobacco firms to promote their products in stores. NZACS Chairperson, Bryce Taylor, stated to the media that "if you agree to sell so many brands of their products, they give you certain rebates…the rebate is associated with the decision to purchase a particular brand". [23]

Unfortunately for NZACS, Section 28 of the Smoke-free Environments Act (1990) was very clear about banning any gift or cash rebate as an inducement or reward to any retailer for the purchase, sale, advertisement or placement of tobacco products. Disingenuously, David Killen, the NZACS Executive Director, attempted to claim that such displays did not encourage people to smoke and that any reimbursements that retailers received from the tobacco industry were the same as that received from the confectionery industry[24].

There were three problems with the NZACS response. One was that it flew in the face of the legislation which was very explicit about cigarette displays. Killen's claim that the Act did allow such displays did not go down well with the Ministry of Health. It immediately launched an investigation into the matter, specifically "the issue of tobacco companies providing incentives to retailers to sell and display tobacco".[25] Secondly, it flew in the face of research that showed that there was a clear link between displays of cigarettes and young people taking up smoking. Four researchers from ASH (Action on Smoking and Health) had confirmed international evidence that such displays did have an effect on youth taking up smoking. One of the researchers, Dr Janine Paynter, addressing the 2008 Public Health Association Conference, said that an ASH Survey of 27, 000 year ten students in 2007 had demonstrated a "clear link between the number of times children visited dairies, supermarket or service stations and the likelihood that they are susceptible to smoking or had experimented with smoking'. [26]

The third problem was that David Killen had not disclosed that BAT (NZ) was a member of NZACS. Indeed, it was not just a member, but a "premium" member. Whilst claiming that the Association represented small retailers, it transpired that NZACS had no independent small retailers among its members and was a representative of the petrol station stores as well as being a front organisation for large companies, such as BAT (NZ).[27]

Killen's claim also caused New Zealand's largely lacklustre news media to start digging into the issue. A report on TVNZ's *One News* demonstrated a direct link between rebates to retailers and the tobacco companies, especially BAT (NZ). A document obtained by reporters "discussed the rebates for volumes [of cigarettes] sold [by retailers] and the money [which would be provided to retailers] for compliance with rules, including BAT's share of visible space". [28] Incongruously, at the same time BAT was claiming that in the case of any Ministry of Health review between the "commercial arrangements between tobacco companies and retailers", it would "make sure it [met] all its legislative and regulatory responsibilities".[29]

The Environmentalist

BAT (NZ) has made much of its relationship with Keep New Zealand Beautiful. BAT justifies its involvement by commenting that:

"Environmental management is a key element of our business activities and we continue to focus on minimising our impact on the natural environment". [30]

In 2008 it was revealed that Keep New Zealand Beautiful (KNZB) had received $300,000 from BAT (NZ). BAT had previously provided money to KNZB toward the Butt Litter Toolkit which KNZB had developed in partnership with Smokin' Station and was distributed to business owners and councils.[31] A BAT (NZ) representative also sits on the KNZB Board as an industry rep.

Along with junk food wrappers, cigarette butts are a major form of litter. ASH, in its nomination of BAT (NZ) for the Roger Award, noted that approximately three billion cigarette butts are littered in New Zealand each year. As part of a clean up of the region's beaches, Environment Waikato issued a media release which reinforced that point:

"Waikato beaches are being treated like giant ashtrays. A recent report to Environment Waikato's environment committee showed school groups removed 2,414 cigarette butts while cleaning up 11 Coromandel and west coast beaches earlier this year".[32]

The release noted that many of the butts would not have come from bathers but would have come through the storm water system which empties into rivers and the sea.

While it is easy to congratulate BAT (NZ) on its initiative in this area, it should be remembered that it is the main cause of the pollution. BAT (NZ) uses its connection with KNZB to great public effect, as it allows the company to maintain the charade that it is a good corporate citizen.

Yes, I'm The Great Pretender

BAT has undertaken a considerable media and public relations campaign to win popular appeal. Its annual *Social Reports*, media statements and charitable and community sponsorships provide the public with the impression that it wants to rectify the harm that its products do and, that as a company, it wishes to benefit the wider community. However, as has been shown above, this is mostly deceit and hype. While BAT (NZ)'s media statements talk about "partnership" with Government and other "stakeholders", its actions have been to undermine policy and direction to benefit itself.

Nowhere is this deceit and hype at its most pronounced that in BAT's *Social Reports*. At first glance these *Reports* give the impression of a dynamic and progressive company. However, its *Social Reports* should be read in the same manner that reports used to be read from Maoist China, which spoke of bumper harvests. The *Social Reports* are simply exercises in public deception, providing people with half truths or misleading comments. As Sue Newberry observes in her *Financial Analysis* on BAT (see below) there is an appalling use of "spin doctoring" to promote and provide support for more market expansion for its products as well as to gain public understanding and sympathy.

Of course, BAT (NZ) is not alone in this sordid business. It has companions like Philip Morris and Imperial Tobacco, who are also involved internationally and domestically. However, BAT has proven to be more nefarious in its dealings in New Zealand then they have. This more than likely, has a lot to do with its dominant stake in the New Zealand market (75%). Equally, it is also a result of British American Tobacco's larger international corporate strategy to grow and maximise market share for its product. It is the same strategy that has seen it deceive and subvert governments and communities worldwide. Unfortunately, New Zealand is just another part of that strategy.

For its deception, dishonesty and disregard for human life, British American Tobacco richly deserves to "win" the 2008 Roger Award.

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1 http://www.stats.govt.nz/analytical-reports/women-in-nz/cancer-leading-cause-death.htm

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3 CAFCA and GATT Watchdog; Roger Award: Statement of Judges' Decision for 2008.

4 Monbiot, George, 'Smoke and Mirrors' from the Guardian. 23 August 2005. or http://www.guardian.co.uk/politics/2005/aug/23/conservatives.smoking

5 British American Tobacco (New Zealand) Social Report 2007.: About Us – Organisational Structure. Pg. 5. 2007

6 Monbiot, George, 'Smoke and Mirrors' from the Guardian. 23 August 2005. or http://www.guardian.co.uk/politics/2005/aug/23/conservatives.smoking

7 http://news.bbc.co.uk/2/hi/programmes/this_world/7477468.stm. For the Google video of the This World documentary : Bannatyne takes on Big Tobacco go to: http://video.google.com/videoplay?docid=4851577105036137701

8 Thompson, George Dr. Trust Us: We're Socially Responsible – The Truth behind British American Tobacco NZ's Corporate Social Responsibility Reports. ASH publication, Newmarket, Auckland NZ. 2005. pg.7

9 British American Tobacco (New Zealand) Social Report 2007.: Introduction: General Manager's Forward. Pg. 1. 2007

10 Thompson, George Dr. Trust Us: We're Socially Responsible. pg.11

11 Thompson, George Dr. Trust Us: We're Socially Responsible. pg.11

12 British American Tobacco (New Zealand) Social Report 2007: Engaging with Government. Pg. 13. 2007

13 'A Portrait of Health: Key results of the 2002/03 New Zealand Health' published by the Ministry of Health 2004 available from the website http://www.moh.govt.nz/moh.nsf/0/3D15E13BFE803073CC256EEB0073CFE6

14 Cancer- Leading Cause of Death Among Females from Statistic New Zealand. http://www.stats.govt.nz/analytical-reports/women-in-nz/cancer-leading-cause-death.htm

15 Maori Women Continue to Smoke During Pregnancy; Media Release from Public Health Association. 4 July 2008.

16 Making New Zealand Smoke Free will Reduce Ethnic Death Rate Inequalities; Media Release from the University of Otago, 9 June 2006.

17 British American Tobacco (New Zealand) Social Report 2007: Engaging with Government. Pg. 13. 2007

18 British American Tobacco (New Zealand) Social Report 2007: Engaging with Government. Pg. 15. 2007

19 Systematic Review of the Health Effects of Swedish Snus Released; Media Release from NZ MInistry of Health. 29 March 2007

20 Consumers Warned 'Light' Or 'Mild' Tobacco Likely To Be Just As Deadly As Regular Strength; Media release from Commerce Commission. 24 September 2008

21 Dunham, Will; Smokers More Hooked on Nicotine: Study; (Reuters) from Canadian National Post 28 October 2008.

22 Thompson, George Dr. Trust Us: We're Socially Responsible. pg.31

23 Johnston, Martin; Tobacco Giants Cash Incentives under Fire from the New Zealand Herald, 4 July 2008.

24 Johnston, Martin; Tobacco Giants Cash Incentives under Fire from the New Zealand Herald, 4 July 2008

25 Johnston, Martin; Tobacco Giants Cash Incentives under Fire from the New Zealand Herald, 4 July 2008

26 'Tobacco Displays Increase Risk of Teens Smoking', Public Health Association media release from Tobacco Control Update 9 July 2008.

27 The NZACS Board of Directors reflects its membership with representatives solely from large multinational companies. (The exception is Herbert Morton Accountants which is an accountancy firm specialising in service station management). Interestingly, a BAT representative is not listed in the 2009 NZACS Directors, however BAT retains its premium membership. See: http://www.nzacs.com/nzacs_board

28 'From the Director's Desk' from Tobacco Control Update 9 July 2008.

29 'British American Tobacco will Contribute to Ministry of Health Review'; Media Release from British American Tobacco, 4 July 2008.

30 British American Tobacco (New Zealand) Social Report 2007: Engaging with the Community. Pg. 7. 2007

31 British American Tobacco (New Zealand) Social Report 2007: Engaging with the Community. Pg. 7. 2007

32 Thousands of cigarette butts litter Waikato beaches; Media Release from Environment Waikato. 23 July 2008

Financial Analysis

British American Tobacco

Sue Newberry

British American Tobacco (New Zealand) Ltd (BAT NZ) is a subsidiary of the world's second largest quoted tobacco corporation, British American Tobacco PLC (BAT PLC), of London. BAT PLC conducts its global operations through regions, and operates in the Asia Pacific region via BAT Australia (BAT Aust), which owns BAT NZ's shares. In the Asia Pacific Region, BAT is the largest international tobacco company.

This financial analysis begins with the 2007 Group *Annual Reports* of BAT PLC to give an overview of the size of this tobacco giant, and its global strategies. It then links these strategies to the information available in New Zealand about BAT NZ. BAT NZ publishes on its Website a voluntary publication called a "*Social Report*", but does not publish financial information there. BAT NZ is required to lodge *Financial Reports* with the Companies Office, and these *Financial Reports* are available to the public. A company that does not issue shares or other financial securities to the wider public is deemed to be not publicly accountable, and may choose to take advantage of reduced *Financial Reporting* requirements. BAT NZ does not issue shares or securities to the wider public and the financial information drawn from the Companies Office source takes advantage of the reduced financial reporting requirements. The *Financial Reports* are those for British American Tobacco Holdings (New Zealand) Limited and Subsidiaries.

BAT's Global Operations (From BAT PLC)

In 2007, BAT PLC reported that worldwide more than five trillion cigarettes are sold annually (p.11). Corporate operators have only limited access in China, where the State plays a significant role, and this reduces the size of the global cigarette market for corporate operators to about 3.4 trillion cigarettes annually.

Depending on whether BAT PLC's activities through associate companies in the United States are included in the global cigarette market for corporate players, BAT PLC has either 27.4% of that global market (including US operations) or 20.5% (excluding US operations). BAT PLC provides summary regional information about its volumes, but that summary information appears to exclude US associate company volumes (p. 32). These figures therefore understate BAT PLC's global volumes.

BAT PLC Regional volumes of cigarette sales

	Volume (Billions)
	2007
Europe	245.0
Asia-Pacific	145.2
Latin America	150.5
Africa and Middle East	101.0
America-Pacific	42.3
Totals	**684.0**

BAT PLC's *Annual Reports* provide financial information about BAT's global operations that may be compiled to estimate the extent of BAT's global financial activities, whether conducted directly or through associate companies and joint ventures.

	Revenue (direct) Billions (£)	**Revenue (BAT's share of associates, joint ventures) Billions (£)**	**Total Revenue Billions (£)**
	2007	**2007**	**2007**
Europe	3.846	0.763	4.609
Asia-Pacific	1.896	0.547	2.443
Latin America	2.564	0.001	2.565
Africa and Middle East	1.239	0.009	1.248
America-Pacific	0.473	1.888	2.361
Totals	**10.018**	**3.208**	**13.226**
Gross Revenues (including excise and other taxes)	**26.634**	**4.436**	**31.070**

The **£**13.226 billion total revenue figure reported in the table excludes all the taxes included in the price of cigarettes. Companies are required to report their gross turnover (including such taxes), and for 2007, with those taxes included in that turnover was **£**31.070 billion. This equates to roughly NZ$77.675 billion.

BAT's profits from operations may be compiled in the same way to give about **£**3.454 billion, or about NZ$8.635 billion:

	Profit from Operations (direct) Billions (£)	**BAT's share of profit from associates, joint ventures Billions (£)**	**Total Profit from operations Billions (£)**
	2007	**2007**	**2007**
Europe	0.782	0.048	0.830
Asia-Pacific	0.667	0.110	0.777
Latin America	0.680	0.001	0.681
Africa and Middle East	0.447	0.001	0.448
America-Pacific	0.436	0.282	0.718
Totals	**3.012**	**0.442**	**3.454**

BAT PLC is clearly very large, but it admits it is only the second largest tobacco company, the largest being Philip Morris. As may be seen from BAT PLC's global strategy BAT PLC wants to be the largest.

BAT PLC's Global Strategy: Global Leadership

BAT PLC's overall strategy is to "achieve leadership of the global tobacco industry both as leader in volume sold", and as the tobacco industry's leader "as the preferred partner of key stakeholders and in demonstrating responsibility" (p.14). It has adopted four sub-strategies in pursuit of this overall strategy:

1. "growth in BAT's volume and value share of the global tobacco market";
2. "increasing profits" and funds generated;
3. responsibility by balancing BAT's "commercial objectives with the expectations of a broad range of stakeholders", and
4. having "the right people and the right work environment to deliver" this vision and strategy (pp 14-15).

BAT PLC uses a "wide range of measures and indicators by which the Board assesses performance compared to the Group's strategy", and pays its executive staff performance bonuses to encourage their contribution to this strategy. These bonuses form a significant component of final pay packets, ranging from 67.5% to 100% on top of base salary for on target performance, and 135% to 200% on top of base salary for exceeding target (p. 59).

The basis on which bonuses are paid signifies what really matters. BAT PLC reports its use of seven key performance indicators (KPIs) to determine the bonuses. These KPIs are designed "to ensure management's focus is aligned with the interests of [BAT PLC's] shareholders" (p. 12). The KPIs for bonus purposes are:

1) revenue growth;
2) volume growth in the four key brands (Dunhill, Kent, Lucky Strike and Pall Mall);
3) share of global volume amongst key players;
4) profit from operations, excluding exceptional items;
5) cash flow;
6) earnings per share; and
7) total shareholder return.

The table below sets each KPI against the relevant global sub-strategy:

Global sub-strategy	**KPI for bonus purposes**
<u>Sub-strategy 1</u> Growth in BAT's volume and value share of the global tobacco market	1. revenue growth 2. volume growth in the four key brands 3. share of global volume amongst key players
<u>Sub-strategy 2</u> Increasing profits and funds generated;	4. profit from operations, excluding exceptional items 5. cash flow; 6. earnings per share; 7. total shareholder return
<u>Sub-strategy 3</u> Responsibility by balancing BAT's commercial objectives with the expectations of a broad range of stakeholders.	
<u>Sub-strategy 4</u> Having the right people and the right work environment to deliver BAT's vision and strategy	

It appears that BAT PLC's third and fourth sub-strategies relating to responsibility and staff might look good for public consumption, but they don't matter to BAT PLC. Maybe BAT PLC already is the global leader in demonstrating responsibility?

The idea of corporate social responsibility reporting started out with great hopes, but early advocates soon become disillusioned as companies responded by dressing up activities to represent them *as if* they are environmentally or socially responsible. This is known today as greenwash, and BAT seems to be a greenwash expert.

BAT PLCs Global Leadership Strategy Dressed Up As Social Responsibility

In New Zealand, initiatives likely to assist with pursuit of the first two of BAT PLC's sub-strategies for global leadership (i.e. growth in volume, market share, profits and funds) are reported in BAT NZ's *Social Report* as if they are social initiatives. Just two examples are given to demonstrate how this occurs, by presenting for comparison extracts from BAT PLC's 2007 *Annual Report* commenting on risks to its global leadership and growth strategies, followed by excerpts from BAT NZ's *Social Report* which present the same strategies as if they demonstrate BAT's socially responsible behaviour in New Zealand. Although the examples are large, it is important to see how the growth strategies are spun into seemingly socially-oriented initiatives. The first example involves efforts to protect BAT's profits, market volume and value; and the second example involves efforts to expand BAT's market by introducing new products.

1: Protecting BAT's Profits, Market Volume And Value

BAT PLC *Annual Report* 2007:
Key Group Risk Factors And Management Processes

<u>Illicit trade and intellectual property</u>
"Illicit trade in the form of counterfeit products, smuggled genuine products and locally manufactured products on which applicable taxes are evaded, represents a significant and growing threat to the legitimate tobacco industry. Increasing excise rates are encouraging more consumers to switch to illegal cheaper tobacco products and providing greater rewards for smugglers. Illicit trade can have an adverse effect on Group volumes, restrict the ability to increase selling prices and damage brand equity" (p. 29).

<u>Excise and sales tax</u>
"Tobacco products are subject to substantial excise and sales taxes in most countries in which the Group operates. In many of these countries, taxes are generally increasing but the rate of increase varies between countries and between different types of tobacco products. Increased tobacco taxes or changes in relative tax rates for different tobacco products, or adjustments to excise structures, may result in a decline in overall sales volume for the Group's products or may alter the Group's sales mix in favour of Value-for-Money Brands. Increases in tobacco taxes can also lead to consumers rejecting the Group's legitimate tax-paid products for products from illicit sources."

BAT NZ *Social Report* 2007:
Engagement With Government (Issues)

<u>Trade in illicit tobacco</u>
"The sale and use of illegal tobacco is a global problem, with the trade in illegal cigarettes estimated to be 11% of global cigarette consumption; representing a loss of revenue to governments estimated to be between US$40 to US$50 billion". "BATNZ has … worked alongside the Customs Service providing information on the illicit trade in tobacco products gained through market and trade sources…It is the strongly held belief of BATNZ that the majority of New Zealand grown tobacco leaf ends up as 'chop-chop' and is sold on the black market…Investigations …have demonstrated an annual cultivation and harvesting of at least 50 acres of land dedicated to growing tobacco leaf… Using the figure of NZ$368,000 excise tax payable for a tonne of tobacco leaf, the New Zealand government is potentially missing about NZ$18 million in lost excise revenue per annum… BATNZ supports Government efforts in introducing the Customs and Excise Amendment Bill (No 3) in order to address the real and serious concerns surrounding the illicit tobacco trade, principally the area of illegal manufacture of tobacco being grown in New Zealand. We strongly support tougher penalties and legislation that acts as a deterrent to the illicit trade in tobacco products." (BATNZ, p. 13-14).

2. Expanding BAT's Market

BAT PLC *Annual Report* 2007:
Key Group Risk Factors And Management Processes
Marketplace
"The Group operates in highly competitive business and geographical markets. To maintain a competitive advantage, it must anticipate and respond to new consumer trends through continuous innovation. The Group also seeks to develop and market new products, packaging and technologies, including products with potentially reduced harm. Development of these products is an expensive and lengthy process, but there are anticipated advantages for any manufacturer who introduces these products to the market first."

BAT NZ *Social Report* 2007:
Engagement With Government (Issues)
Harm reduction
"We believe that the only way to avoid the risk of smoking is not to smoke and the best way to reduce the risks of smoking is to quit. We acknowledge that there are real risks of serious harm to health presented by smoking. That is why we consider it important to pursue strategies and products that help reduce that harm. Snus, a Swedish style smokeless tobacco, is a potentially reduced risk tobacco product. Currently, New Zealand legislation forecloses on the opportunity to introduce smokeless tobacco products to the New Zealand market. We have, however, been engaging with government stakeholders to better understand the potential role of smokeless tobacco in New Zealand." (BATNZ, p. 15).

These are just two examples of how BAT NZ's *Social Report* spins BAT PLC's growth efforts into suggestions that those efforts are socially responsible. The second of these examples is particularly appalling. As reported in 2004 by the European Commission's Scientific Committee on Emerging and Newly Identified Health Risks, smokeless tobacco products are associated with various other forms of cancer, including cancers of the pancreas, and oral and pharyngeal cancers (http://ec.europa.eu/health/ph_risk/committees/04_scenihr/docs/scenihr_o_013.pdf).

As becomes evident from comparing BAT PLC's *Annual Report* and BAT NZ's *Social Report*, there is no intention to reduce or eliminate sales of the smoking products. Rather, this is about market expansion to add smokeless products to BAT NZ's market. But it is presented under the guise of harm reduction, by referring to the smokeless products as "potentially reduced risk". BAT NZ conveniently omits to mention the known very serious health damage and other harm caused by smokeless products.

FINANCIAL ANALYSIS: BAT NZ

BAT NZ's *Social Report* says BAT has between 75% and 80% of the tobacco market in New Zealand. The *Social Report* contains enough detail to identify BAT NZ's sales to retailers as $1,125 million.

Sales (turnover) reported	$266 million
Plus excise taxes	$734 million
Subtotal	$1,000 million
Plus GST (12.5%)	$125 million
BAT NZ's external revenue	**$1,125 million**

The financial statements of any wholly owned company should be viewed with some scepticism because of the enormous flexibility available through transfer pricing to produce results and figures as desired. Transfer pricing refers to the prices charged between related companies. Because they are related, the prices may differ significantly from those that would be charged to outsiders, and this in turn affects the financial results and reports. Despite this flexibility available to BAT, there is no choice but to work with the financial information BAT NZ has provided. The income statement (below) shows a gross profit of $203 million, which represents 76% of sales ($266 million), and a net profit before tax of $138 million or 52% of sales. The size of the gross profit (76%) shows that tobacco products cost very little to produce.

BAT NZ Income Statement For Year Ended 31 December 2007

Income Statement	**$ (thousands)**	**$ (thousands)**
Sales (net)		266,460
Cost of sales		-63,018
Gross profit		203,442
Other gains		+40,269
Expenses		
Selling, distribution and marketing costs	47,588	
Administrative and other overheads	24,466	
Finance costs (net)	33,820	
Total expenses		-105,874
Profit before income tax expense		137,837
Income tax expense		-38,613
Profit after tax		99,224

BAT NZ reported income tax expense for 2007 of $38.6 million. This works out at about 28% of profit before tax, but the corporate tax rate is 33%. Further information in the notes helps to explain some of the difference. The largest adjustment ($10 million) warrants closer attention. This is a deduction relating to approximately $30 million of dividend income that is not subject to tax. This is in the income statement as part of other gains. The balance sheet analysis (below) helps to understand the dubious nature of the tax adjustment.

Profits are typically assessed in relation to shareholders' funds. The statement of movements in equity (below) provides a reconciliation between the opening and closing figures for shareholders' funds. As shown in the statement of movements in equity, the 2007 year commenced with reported total shareholders' funds of $122 million. BAT (NZ)'s 2007 profit after tax ($99 million) provided a return of 81% on opening shareholders' funds.

BAT NZ Statement Of Movements In Equity For Year Ended 31 December 2007

Shareholder's Funds	**$1,000s**
Shareholders' funds at 1 January 2007	121,887
Profit after tax for the year ended 31 December 2007	+99,224
Dividends paid (to BAT Aust)	-35,176
Tax credit on dividends to foreign shareholders	+5,276
Shareholders funds at 31 December 2007	**191,211**

The full $35 million of dividends would have been paid to BAT Aust which owns all of BAT NZ's shares. The shareholders funds are analysed a little further along in the balance sheet where the shares are reported at $160,000. When reserves and retained profits are taken into account, BAT Aust's investment in BAT NZ totals $191 million (total shareholder's funds).

BAT NZ Balance Sheet As At 31 December 2007

Shareholder's Funds	**$1,000s**	**$1,000s**
Shares	160	
Reserves	3,500	
Retained profits	187,551	
Total Shareholder's Funds		**191,211**
Assets		
Preference shares in BAT Aust	340, 830	
Intangible assets	130,759	
Deferred taxation	4,822	
Property Plant and Equipment	3,574	
Current assets (mostly inventory and receivables)	225,800	
Total assets		705,785
Liabilities		
Loan from BAT International Finance	340,830	
Other liabilities	173,744	
Total liabilities		-514,574
Net Assets (Assets minus liabilities)		**191,211**

BAT NZ's total assets are shown at $706 million, but the assets it requires for operations in New Zealand seem to represent only a small part of that $706 million. The largest asset that seems unrelated to BAT NZ's New Zealand operations is the $341 million (48% of total assets) investment in preference shares issued by BAT Aust. Notice that this investment in BAT Aust (BAT NZ's parent company), is close to twice the size of BAT Aust's $191 million investment in BAT NZ.

A matching oddity shows up in BAT NZ's liabilities. Total liabilities are shown as $515 million, of which $341 million (66% of total liabilities), is a loan from BAT International Finance, which is a subsidiary of BAT PLC. In other words, BAT NZ has borrowed $341 million from one BAT PLC subsidiary (BAT International Finance) so it can buy preference shares in another BAT PLC subsidiary (BAT Aust) which is also BAT NZ's immediate parent company. It seems unlikely that this arrangement has anything to do with BAT NZ's operations in New Zealand. So why do it?

One possibility is to reduce BAT NZ's income tax liability in New Zealand. Having borrowed $341 million from BAT International Finance, BAT NZ must pay interest on that loan. That interest is tax deductible and therefore the interest expense reduces BAT NZ's tax liability in New Zealand. And, having invested all of the money borrowed in preference shares of its own parent company, BAT NZ receives regular dividends on those preference shares. In BAT NZ's income statement, the preference dividend income received ($30 million) approximately offsets the interest expense paid on the loan, so there is little effect on the reported net profit. But the preference dividend income from BAT Aust is tax exempt income in New Zealand. If BAT NZ were not involved in this arrangement, it would be liable for an additional $10 million in New Zealand income tax each year. Instead of reporting $38.6 million tax expense, it would report $48 million.

This brief financial analysis of BAT NZ's *Financial Report* reveals an astounding level of profitability from tobacco products. BAT PLC's aspirations for global leadership of the tobacco industry include global leadership in demonstrating responsibility. This analysis of BAT PLC's *Annual Report*, BAT NZ's *Financial Report* and BAT NZ's *Social Report* suggests that BAT's aspirations for leadership in demonstrating responsibility should be viewed as aspirations for leadership in greenwashing. BAT PLC's corporate sub-strategies for achieving the volume and profitability strategies are dressed up and represented as if they are socially responsible. In the two illustrative examples given, BAT NZ presents its efforts to expand its clearly very lucrative New Zealand market for tobacco products to include smokeless products as if harm will be reduced by adding smokeless products on top of the existing smoking products. At the same time, BAT NZ omits to mention the known very serious harm caused by smokeless tobacco products. BAT NZ's *Social Report* emphasises taxes arising from its activities as demonstrating BAT's contribution to New Zealand's economy. BAT NZ also suggests in its *Social Report* that its (socially responsible) assistance to the New Zealand government to close down the illicit tobacco trade will allow the Government to collect a further $18 million of tobacco excise taxes (and conveniently protect BAT NZ's lucrative tobacco market). But BAT NZ's *Financial Reports* reveal a financial arrangement that has no relation to BAT NZ's operations and looks to be tax driven. If BAT NZ really did have any concern for New Zealand's tax base, it could itself contribute a further $10 million to New Zealand's income tax revenue base simply by not engaging in arrangements such as this.

APPENDIX: Two Further Examples Of BAT's Greenwash

1: Control Of Retail Conditions Threatens BAT's Volumes & Profits

BAT PLC *Annual Report* 2007: Key Group Risk Factors And Management Processes

Regulation

"The Group's businesses operate under increasingly stringent regulatory regimes around the world. Further regulation is expected, particularly as a result of the World Health Organisation's Framework Convention On Tobacco Control (FCTC) and increasingly active tobacco control activities outside the FCTC. … Regulation of the tobacco industry generally covers:

Product: …,

Promotion: …,

Purchase: The manner in which cigarettes are sold, such as type of outlet (e.g. supermarkets, vending machines) and how they are sold (e.g. above the counter versus beneath the counter);

Place: …;

Price:… ;

These regulations may have an impact on volumes (e.g. as a result of restrictions on where cigarettes may be smoked) and profits (e.g. as a result of diminution of brand equity leading consumers away from premium brands, through excise increases and/or through increased cost of complying with product design, disclosure or packaging requirements".

BAT NZ *Social Report* 2007: Engagement With Government (Issues)

Retail display of tobacco products

"Over the past two years, there have been calls in New Zealand for a ban on retail tobacco product displays…The Ministry of Health … proposed a number of options from retention of the status quo (with increased education) to a complete ban on the retail display of tobacco products… [BAT agrees] that a reduction in the number of display units from two to one per outlet and a reduction in the number of facings could help retailers comply with a set of complex regulations and improve in-store management. However, we do not support a total ban on retail display as there is currently limited empirical evidence to suggest that banning retail displays will have any impact on smoking rates. We further argue that a total ban would have a number of unintended consequences, including: negating any impact …from the introduction of graphic health warnings …; sending legal tobacco products 'under the counter', further stigmatising those adults who choose to smoke and, in so doing, encouraging them to access New Zealand's growing trade in illegal tobacco products; potentially increasing health risks from people using illegally grown and processed tobacco products that do not comply with manufacturing standards or regulations…; creating increased security problems for one person retail operations who would be forced to turn their backs on customers while they accessed tobacco products from under the counter, or from some other site hidden from the customer" (BATNZ, p14-15).

2: Cost Savings Presented As Improved Service To Retailers

BAT PLC *Annual Report* 2007: Financial Review
"During 2007, the last year of our five year programme of cost savings, we achieved annual savings of **£**1,006 million in total for supply chain and overheads and indirects. A new five year target has been set to achieve annual savings of **£**800 million by 2012, in areas such as supply chain efficiencies…

BAT NZ *Social Report* 2007: Engaging With Retailers
New direct to store distribution (DSD) model
"In May 2007 BATNZ changed its retail delivery system to a direct-to-store model (DSD). Because we are now interfacing directly with our retail supply chain, we have a greater ability to understand retailer needs and facilitate retailer understanding of and compliance with all regulatory requirements, particularly in terms of product display restrictions and preventing youth access to tobacco products. In November 2007, after the introduction of our DSD model, we implemented regulatory compliance measures as part of our trading terms which penalises retailers who fail to comply with [Smoke Free Environments Act] requirements. The move to a DSD model has also provided retailers with a number of improved services including better inventory management." (BATNZ, p16).

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