

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

00:00:04:07 - 00:00:25:00

Louis

Welcome to Deadly Industry: Challenging Big Tobacco, a weekly podcast from the Tobacco Control Research Group at the University of Bath. We are an international and award-winning group that investigates the tactics used by Big Tobacco to maximise its profits at the expense of public health. The evidence we produce helps societies to hold this deadly industry to account.

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Multiple speakers

The health issues are massive. Globally, each year, tobacco kills 9 million people. That's the equivalent of wiping out the population of London each year. Corporations are out for profit. Anything that is going to harm those profits is going to be unpalatable to them. This is a massive issue globally because if you look at global deaths just for corporate products, cause between a third and two thirds of all global deaths.

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Louis

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In this episode, we're going to be setting the scene by talking about tobacco industry interference and influence. We'll be asking how tobacco companies interfere in public health policy, and how do they influence and lobby governments around the world to maintain their massive profits? I'm joined today by Andy Rowell and Tom Gatehouse. Andy is the Investigations Lead at the Tobacco Control Research Group, and Tom is a Research Assistant also at the Tobacco Control Research Group.

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Welcome both.

00:01:29:23 - 00:01:30:24

Tom

Thanks, Louis.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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Andy

Thanks, Louis, good to be here.

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Louis

So maybe let's start by trying to make a bit of sense of these terms. We've got this word influence and this word interference. Andy, maybe let's go to you first. How would you define these two terms?

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Andy

Basically, if you look at sort of, for me influence is if we're looking sort of in like this sort of day to day, sort of more subtle lobbying, some of the stuff you don't see, behind the scenes, the phone calls, the dinners, maybe that the gifts and the hospitality, is, it's probably more influence.

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And that interference is probably more on the other end of the sort of spectrum of slightly more aggressive, more threats. More sort of like hard-nosed interference with, with government policy and health policy.

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Louis

So, you mentioned the term lobbying there when describing industry influence. How do we define lobbying?

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Andy

That's I mean, that's a good question. There's various definitions That would be out there. I mean, one of the ones, a few years ago, a couple of us wrote a book on lobbying and what we use for the definition within the book is, quote, a lobbyist attempts to influence the decisions of government, end quote, so quite a simple definition.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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So basically, you know, if you're lobbying the government, if you're trying to influence policy, regulation, civil servants over a law, government ministers then that is lobbying.

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Louis

Thanks, Tom. Why do tobacco companies do this? What's in it for them?

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Tom

Well, there's big profits in it for them, basically. So, the tobacco industry is an extremely profitable industry, and has been for decades. And they've always mobilised very aggressively, whenever they feel that their interests are threatened.

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Louis

Maybe let's start then by looking at a case study of this kind of influence and interference. This is a global issue. And, Andy, maybe you could illustrate an example from around the globe.

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Andy

Yeah. I mean, we spent a number of years at the Tobacco Control Research Group looking at, some of the tobacco industry's influence and interference in Africa. And we started about 2014, 2015 and looking, mainly sort of at East and Central Africa. And I mean, it was quite clear that, you know, what was going on needed sort of further investigation because, for example, if you look to say for Kenya, the Kenyan Tobacco Control Act, which had initially been sort of mooted in 2007, actually took 13 years to be passed into law, and that's 13 years of exactly that intimidation, influence and interference, you know, by the

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tobacco industry. And what it was doing is same old that has been doing for the last 78 years. You know, this is an industry that tries, you know, to deny the evidence and delay regulation, you know, and it's got, you know, this book's been written on how the industry has delayed health regulation, regulation on second hand smoke, regulation on you know nicotine, and plain packaging, all those kind of things on it, you know, so it's a kind of modus operandi how it has delayed legislation and regulations around the world.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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And again, in South Africa in 2018, you know, the industry was lobbying hard against the tobacco control bill. So we basically, we met a tobacco industry whistleblower in 2015. And what he told us was an amazing story really. And he showed this evidence how BAT had made, questionable payments actually impacting ten countries in eastern central Africa.

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Louis

So BAT that's, British.

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Andy

Sorry. That's British American Tobacco, yes. So, you know, one of the largest tobacco companies in the world, and a British company based in London and had, was basically acting like a sort of colonial company, I'd say, in the way it was operating, it was still being sort of like, operations led out of London, but it was there.

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It was trying to sort of, had incredible influence and interference, you know, across East and Central Africa. And it was doing this, you know, it was paying civil servants, it was paying politicians, you know, and basically, to undermine health legislation and to delay have health legislation to undermine competitors. And it was, I mean, basically horrendous what the company was up to.

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Louis

So this has all been evidenced by these whistleblower documents that that you received?

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Andy

Yeah, this was, this was all, I mean, we were we were handed over tens of thousands of whistleblower documents. We actually worked with the BBC and Panorama on a program in 2015 that was broadcast in late 2015. And then in the days following that broadcast, the whistleblower concerned, Paul Hopkins, went with his lawyer to see the Serious Fraud Office, based in London.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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You know, the agency in the UK that, is tasked with looking at, sort of like widespread criminal fraud. And they had a preliminary case team look at the evidence. In August 2017, they launched a formal criminal investigation into British American Tobacco. And that lasted till the beginning of January 2021 when they when they dropped the investigation, which was, for us, an extremely surprising because what we did as researchers and as academics, we systematically went through the documents that we were given and we both had triangulated each payments that BAT had made.

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So there were at least two pieces of evidence. And what we found was, between 2008 and 2013, we reckoned at least \$600,000 had been paid by BAT to politicians, civil servants, other people to undermine health legislation and undermined competitors. In total, I mean, we came up with about \$600,000 that BAT had been paying, you know, and payments were made in various ways, including hand-delivered cash.

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I mean, the old brown envelopes or bank wire transfers, you know, buying cars for politicians, you know, money, campaign donations, podiums and plane tickets. Some people have said subsequently, that's not a lot of money, \$600,000, but actually what it shows is how cheap BAT could buy influence in Africa, you know, \$3,000 meant they could get someone to change legislation before the president signed and it's quite insidious.

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I think that a company could have that much influence so cheaply over Africa.

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Louis

You mentioned Paul Hopkins, the whistleblower. Could you tell us a bit more about his role in all of this?

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Andy

Yeah, I mean, Paul approached us in early 2015. Actually, how he came out is a colleague had written an article in the Guardian talking about tobacco industry influence in Africa and interference in Africa. And he approached us and said, actually, you know, you guys know nothing. And he had a point because actually, we really didn't compared to what he was going to tell us.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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And so Paul was, I mean, his previous life, he was worked in, he was Irish Special forces, and then he joined BAT as security, and then he'd worked for over a decade within BAT in East and Central Africa, in the anti-illicit trade departments of BAT and then he blew the whistle internally within BAT and basically his employment got terminated.

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He took BAT to an employment tribunal in the UK. And that employment tribunal ruled that even though Paul was under a UK based contract, but because he'd been based in East Africa, that it's hearing should be based in Kenya. And then he also recalls how, you know, the influence that BAT had over certain judicial processes within Kenya.

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So he felt that he couldn't go any further with that. And that's why he approached us and he literally sat us down and opened up his computer and showed us spreadsheets of illicit payments to politicians, civil servants and whoever and in, whatever it is, 25, 30 years of working on tobacco I've never seen such evidence.

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And I've always said that Paul is to me, the most significant whistleblower since Jeffrey Wigand, who was subject of the film The Insider.

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Louis

For now, I'll just hop on to this, this point. So this is a UK based company you mentioned.

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Andy

This is one of the UK's biggest companies, but actually what is quite unique about British American Tobacco is although it's based in the UK, it's basically mainly operating overseas. So, you know, for your average UK audience, you don't come across BAT as they're sort of known for short, you know, on a day to day basis because they're operating in Africa, they're operating in Asia

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but they have a global presence.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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Louis

I think we'll just hop onto Tom there. So I know you've been doing some work looking at the tobacco industry's influence in the UK. Could you tell us a bit about that? And are these companies using similar tactics in, in this case, the country that they call home?

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Tom

I mean, I would say they adapt their tactics to the local context. So I think certainly in other jurisdictions, like Andy says, in Africa, also in parts of Asia, they implement tactics, which I think in the UK they can't get away with. But that's not to say that they're inactive in the UK at all.

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You know, they have a whole other range of tactics, which they use to influence policy, and to try and get close to policy makers, in order to make their voices heard. So, things like lobbying. So, you know, in our work on the UK Tobacco Industry Interference Index last year,

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Louis

And what is this Index?

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Tom

So, this Index is a report which aims to assess, to what extent the UK is able to protect its public health policies from the influence of the tobacco industry, which is what's required by the global Tobacco Control Treaty - the World Health Organization Framework Convention on Tobacco Control.

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Louis

Is this an exclusively British report?

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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Tom

No, so it's part of the Global Tobacco Index. So I think in the most recent edition, there was something like 90 countries produced their own kind of local indexes which feed into this wider global report. And yeah, we produced the UK version of the report here at Bath. And so yeah, we identified a number of areas of concern.

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So you know these include lobbying, so direct meetings between the tobacco industry or third parties working on its behalf and parliamentarians. So in the UK there's still nothing to stop this from happening. And in many cases, there's not even any requirement for disclosure, which means, of course, that there may be other meetings that we simply don't know about between public officials and the tobacco industry.

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Also public consultations. So, whenever the Government's thinking about bringing in kind of new legislation on a particular issue, sometimes they'll invite responses from parties which may be affected by this, and on tobacco control and public health policy these responses sometimes come from the tobacco industry. So it's a way for them to make their voice heard with policy makers.

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And then also kind of more broadly, we observed a whole other range of unnecessary interactions between public officials, on the one hand, and the industry on the other.

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Louis

What does that mean, unnecessary interactions?

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Tom

So, according to the Tobacco Control Treaty, public officials should interact with the industry only to the extent necessary, to regulate the industry and its products. But it's clear that this isn't the case. And there are all kinds of examples, of public officials meeting the industry for other reasons. So, for example, sometimes in relation to industry, corporate social responsibility.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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So for example, where the industry it might have some kind of environmental or anti-litter campaign, which involves public officials in some way or sometimes industry events or events held by organisations linked to the industry. Sometimes you get MPs speaking at these events, on panels and so on. And then even MPs hosting industry events at Parliament on the parliamentary estate.

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Louis

So Andy, just to bring you back in, this seems like relatively, in some ways relatively tame tactics compared to what you described in South Africa. What's your take on that?

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Andy

Yeah. Can I just jump in on that? I mean, I think, you know, I mean it's still pretty nefarious what's going on. I mean, I'd also, one of the other sort of long standing industry tactics in the UK would be something like the industry paying some of these neoliberal think tanks like the Institute of Economic Affairs.

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And the use of third parties, and so, I mean, he's no longer there, but I mean, certainly when there was a debate a few years ago in the UK about plain packaging and whether the UK would introduce, the advertising on cigarette packs was seen as quite influential.

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so one way to try and reduce the demand for smoking is to make the actual packets plain, or put health warnings on them to get rid of the sort of the logos that we, you know, people kind of know so well, like your Marlboro logo or your Benson and Hedges logo. And when this was going on you'd have Mark Littlewood, who was the then head of the Institute of Economic Affairs, appearing on the Today program, you know, criticising the government's, proposed legislation, attacking and scaremongering over this.

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But what you're, what the audience say it would be listening to this, wouldn't be told is that actually, you know, the IEA Institute of Economic Affairs was actually funded by, you know, numerous tobacco companies and has been for a long time. So, you know, and there's been a long campaign to try and sort of not only kick the tobacco industry out of public health policy, but also all those kind of front groups that say, let's say, you know, covertly funds and we often hear, you know, numerous times and say in the plain packaging debate, you had the IEA on the radio, on the television, you

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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know, attacking the policy.

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Louis

Presumably that becomes very tricky identifying these groups as they become more diffuse from the industry. How do you go about doing that?

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Andy

Well no you're right, it is tricky. And also what you had in the plain packaging debate was you had, a group called Hands Off Our Packs which was actually a sort of front group of Forest which in itself is a front group.

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So you've got a front of a front, you know, happening and yeah, the industry has always used third parties as a way to get its opinion out or its voice out. And, you know, the more discredited you are as an industry, the more you use supposedly independent third parties to, to get your voice over.

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And that's a classic public relations tactic. But the industry is, is always, you know, it's always shifting. It's always kind of looking to find new voices like you'd have said, when there was going to be a ban on points of sale, i.e. where you see your cigarettes in a supermarket,

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again leaked industry documents showed that it was, you know, the federation of newsagents who were going to be speaking out against it. So again, you don't see the tobacco industry on your television or on your radio, but it's actually, you know, a small little newsagent. But actually they're being funded by the tobacco industry to campaign, you know, against the proposed measure.

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So unless, it is quite difficult to track this stuff. You're right. And you have to sort of methodically try and find that funding. Often the funding is opaque. And I mean both with points of sale and plain packaging, we were very lucky in the sense we got leaked industry documents that just showed, you know, the industry tactics, the strategies and the different groups that they were using.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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but otherwise

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groups like the IEA don't disclose their funding.

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Louis

You mentioned that word again, leaked industry documents. This is clearly an important tool for you guys at the Tobacco Control Research Group. How reliant are you on this kind of insider information for this research you do?

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Andy

That's a good question. I mean, you can when you're monitoring the tobacco industry, you know, obviously there's company reports, there's public interest, you know, there's lobbying data, there's, data certainly in the UK on sort of hospitality or there is some disclosure on with some of these organisations on who they receive money

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but again, going back to many of the neoliberal right wing think tanks do not disclose their funders. So it's very difficult. So leaked documents, you know, first hand documents from the horse's mouth as you were coming direct from a from a whistleblower from within the industry is obviously, has been crucial for us. I mean, there's been documents leaked over the tobacco products directive of the EU over the points of sale, over plain packaging, and also going back to, you know, what we were also talking about is Paul Hopkins and BAT.

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And that allowed us to tell, you know, to not only look at what was going on in the UK and Europe, but also to systematically understand how British American Tobacco was operating in Africa.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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Louis

So, Tom, this kind of influence described in these kinds of leaked documents and these other registers Andy mentioned, they paint a picture of a kind of complex network of lobbying. How does the UK government try to prevent or counter this kind of influence?

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Tom

Well, I think compared to other countries, the UK government has actually, I'd say its action leaves quite a lot to be desired when it, when it comes to lobbying. So, compared to Canada, for example, which I think has a proper comprehensive and taxpayer funded lobbying register, in the UK we don't have this. So what we have in the UK is called the Register of Consultant Lobbyists.

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And this applies only to professional lobbyists who have that registered. So it doesn't cover, for example, in-house lobbyists working at companies. And it also covers only meetings with ministers and permanent secretaries, but not special advisers or other more junior officials. So I think actually this lobbying register actually covers like less than 4% of lobbying activity in the UK.

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So there is also one in Scotland. So, for the Scottish Parliament, which is much more comprehensive. It requires disclosure of any face to face lobbying, between, a paid lobbyist and an MSP or certain other types of public official in Scotland. But even this is flawed because it requires declaration only of face to face meetings.

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And obviously, this isn't the only way the industry may seek to influence policy makers. For example, there's nothing to stop them from sending letters and emails, and these don't have to be disclosed. They also don't have to declare face to face meetings with other officials so, for example, an MSPs member of staff and also, there's no requirement for them to declare how much money is involved.

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In other words, how much money they are being paid by a particular company or interest in order to lobby an MSP. So yeah, I think there's still a lot of work to do.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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Louis

Andy to come back to you for a moment. So this is, it sounds like in the UK there's a more sort of subtle network of influence through this lobbying, many of which is, is, hard to register by the sounds of it. How does this compare to the more kind of hard nosed direct interference that you described in South Africa figure in terms of government response?

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How did governments in South Africa and other parts of Africa respond to this kind of interference from the tobacco industry?

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Andy

Right. Yeah. I mean, it wasn't just South Africa was. I mean, you know, what the research was showing that it was, you know, ten countries across eastern central Africa, you know, Burundi Comoros, the DRC, Kenya, Malawi, Rwanda, I think Sudan, Tanzania, Uganda and Zambia, I think.. And I think it's really difficult for many of these governments, to stand up to the tobacco industry, and often again, like, what the industry will do it will use threats.

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It will say if you don't give us what we want, we'll move our factory or we'll take our growing elsewhere, you know, and on a continent where there's high levels of poverty, there's high levels of, you know, sort of malnutrition and certainly rural areas where, you know, in certain countries are very dependent on tobacco growing, for example, you know, the industry voice has a lot of sway.

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So, you know, but they are brutal in their sort of the way they interact with the sort of governments. Again, what our research showed is it's not just that but they were actually bribing civil servants and government ministers and people to get their way. I mean, it was also worth remembering in many of these countries, like BAT I mean effectively had monopolies, you know they are sort of still operating like a colonial company and they'd have a market share of like 80, 85%.

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But even that was not enough for them. They were still trying to undermine the competition, like set up fake unions or whatever they were up to as a way to undermine the competition. And I mean these are, I mean we often think of the tobacco industry as a pretty ruthless, you know, industry and the documents show that's how it was operating.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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And, you know, and let's not forget, I mean, as an industry, it is it is essentially kind of unique because 1 in 2 of its long term, it kills 1 in 2 of us long term users. You know, there's no other industry out there that basically does that.

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Louis

It's quite shocking activities that you're describing. Have there been consequences for British American Tobacco either here in the UK or in Southern Africa?

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Andy

No. You'd like to think there would have been consequences. Basically, as I said, the SFO, the Serious Fraud Office, they opened an investigation in 2015. They opened a formal criminal investigation, which is the sort of next level up in August 2017. And then they closed that investigation in early 2021.

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And what they, what they did is they cited, they said there was a lack of evidence which was bemusing for us because we then went on to work with the BBC again and the Bureau of Investigative Journalism on a new investigation on new leaked documents from South Africa, where, I mean, the evidence was that BAT had been spying on its, you know, its opposition.

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and again, highly illegal activity. I mean, it had a network of over 200 spies but there were new whistleblowers who said that they hadn't been spoken to by the Serious Fraud Office. So the regulator caved in in the UK. And we're still unclear as to why that really happened. And we've been trying to get to the bottom of it ever since.

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Whether we will I you know, I don't know, I mean, South Africa, again, the scandal over BAT's involvement, at the same time as the evidence suggested it was complicit in smuggling its own products out of South Africa, it also had a seat at the table on the government's illicit tobacco task force.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

00:29:30:21 - 00:30:02:14

So I mean, you know, it's the hen was basically looking after the chickens and when this was one of the many scandals that led to the accusations of state capture within South Africa and one thing that did happen was after this there was the Zondo Commission, which was a long multi-year commission in South Africa looking at state capture, which again included some of the allegations about BAT and its regulatory capture of agencies in South Africa.

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Louis

What do you mean by state capture?

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Andy

The state capture is basically where a company has got an excessive over influence over a regulator, a policeman, a customs officer, a civil servants, and has a level of control that, you know, should not happen.

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Louis

So, Tom, here in the UK, this level of industry influence, it seems like there's kind of two sides to it from what Andy is describing, there's the kind of lobbying that happens within this country, and there's also the activities of companies based in this country, their activities abroad. What do you think the UK government could be doing about these issues?

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Tom

Within the UK or abroad?

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Louis

I mean, either, yeah. I mean, maybe starting with the issue of kind of lobbying and influence within the UK, what could the government, in your view, be doing better?

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

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Tom

Well, I think for sure we need a proper lobbying register. So I think, you know, they need to reform the lobbying rules, and create a comprehensive, legally binding and publicly accessible register which covers all lobbying and policy influence activity, and across all UK administrations. I think also they, so I mentioned the public consultations earlier, I think what they need to do here is to identify tobacco industry responses and publish them, in the interests of transparency.

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Louis

And then these are responses to government consultations.

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Tom

Exactly. So, you know, for example, the government says it wants to introduce plain packaging. So then the tobacco industry submits a whole load of responses telling them why it thinks this is a terrible idea. So I think these kinds of responses, they need to be to be published and separated out, in order to ensure that they have no bearing on the eventual development of public health policy.

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And in fact, this is kind of what's been happening in recent years. So, in 2021, the Welsh Government did this and more recently last year in Scotland, the Scottish Government did the same thing. But we hope to see the same thing now occur at the UK level.

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Louis

And Andy on the more the global scale. I mean, firstly, that point of how British companies interfere abroad. Is there anything that UK government could be doing about that?

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Andy

Yeah, I think it's a really interesting point. I mean, we still believe that actually there is a the SFO should reopen its investigation into BAT. Look at the evidence that we put forward, with the BBC and the Bureau into 2021 about South Africa. I mean what's really interesting is the difference between the UK and the SFO kind of folding in its inquiry and the actions of other law enforcement agencies.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

00:33:03:03 - 00:33:38:10

on holding BAT to account. So last year, BAT paid a whopping \$635 million to the US Department of Justice for violating US sanctions on North Korea. And the agreement was something called a deferred prosecution agreement, which is what we thought BAT was going to do with the SFO. You know, the Bangladeshi authorities have demanded that BAT pay money for a quote evading tax.

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You know, we've put out a paper looking on BAT's Iranian operations, including potential complicity in smuggling and other questionable big business activities. Last December, a Dutch court ordered BAT to pay a fine of just over 100 million for declaring, for under declaring profits, and also just after Christmas, you know, the Nigerian Federal Competition and Consumer Protection Commission ordered to pay \$110 million for quite a range of infringements relating to the country's laws.

00:34:12:17 - 00:34:29:02

So here we've got other jurisdictions and other law enforcement agencies taking action on a British company, but the British authorities seem to be incapable of taking action against their own company.

00:34:29:03 - 00:34:46:24

Louis

And so, Tom, you described this, that this interference index is part of a global program looking at interference in lots of countries. Is there a global approach to dealing with interference?

00:34:47:18 - 00:35:14:21

Tom

Well, I mean, there's certainly, a global tobacco control community which shares learning and shares its methodologies and ways of monitoring the tobacco industry and ways of dealing with interference. But, you know, obviously, as I mentioned earlier, the industry tends to adapt according to local context. And so I think the dynamics are slightly different in each country.

00:35:15:19 - 00:35:36:08

And certainly although, I think transparency in the UK is well short of where it needs to be, in other countries the situation is much worse, and it's even harder to, to find out any real information about, the tobacco industry, what it's up to, it's relationships with policymakers and so on.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

00:35:37:04 - 00:35:52:12

So I think the same sort of, on our side, if you like, the same strategies and the same approaches can be shared and applied in different contexts, but obviously in some other contexts, this sort of work is much harder.

00:35:52:17 - 00:36:09:08

Louis

You guys have done a really good job today of setting the scene of this kind of influence and interference and some of these examples that you both worked on. Just for the listener we'll be touching on some more of these topics in future episodes. In terms of influence, we'll be looking at how tobacco companies influence science.

00:36:09:14 - 00:36:21:17

We'll be looking at interference in the environment and policy surrounding environmental damage caused by tobacco companies. Tom, are there any final thoughts from you on tobacco company influence?

00:36:21:19 - 00:36:54:10

Tom

I suppose to kind of echo the point that Andy made at the end about third parties. So just, you know, I think it is very important when we hear kind of narratives in the press or online, perhaps on social media these days, etc. which seem to reflect a positive attitude about not necessarily about the tobacco industry, but these days, a lot of the debates around, newer nicotine products such as e-cigarettes.

00:36:54:12 - 00:37:14:19

So, I think whenever we hear someone kind of singing the praises of these products, I think it's really important to bear in mind, who are they? Who might they be working for? Who might be funding them? And who, you know, as Andy said before, sometimes there are 2 or 3 or even more layers.

00:37:14:19 - 00:37:20:17

So who's the organization they're working for and what's the organisation behind this organisation?

00:37:20:19 - 00:37:23:20

Louis

Andy and Tom, thank you very much for joining me today.

Transcript – Deadly Industry: Challenging Big Tobacco – Ep. 3, S.1

00:37:23:22 - 00:37:24:13

Tom

Thanks, Louis.

00:37:24:17 - 00:37:25:15

Andy

Thanks.

00:37:25:17 - 00:37:48:15

Louis

And as usual, the sources for today's discussion can be found in the episode shownotes, including the investigation Andy mentioned about British American Tobacco and the Tobacco Industry Interference Index that Tom worked on. We'll be back next week, where we'll be joined by Dr. Rob Branston to talk about all things tobacco and money. From the Tobacco Control Research Group,

00:37:48:15 - 00:38:11:19

Louis

you've been listening to Deadly Industry: Challenging Big Tobacco, hosted by Louis Laurence, produced by Kate White and edited by Sacha Goodwin. The production manager is Jacqueline Oliver. You can email us at Tobacco-Admin@Bath.ac.uk or find us on LinkedIn and Bluesky. This is a University of Bath production.