

# German Tobacco Industry's Successful Efforts to Maintain Scientific and Political Respectability to Prevent Regulation of Secondhand Smoke

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KREBSFORSCHUNGSZENTRUM  
IN DER HELMHOLTZ-GEMEINSCHAFT



WHO Collaborating Centre  
on Tobacco Control

April 2006

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This study was funded in part by National Cancer Institute Grant CA-87472 and the German Cancer Research Center. Opinions expressed reflect the views of the authors and do not necessarily represent any sponsoring agency or the University of California. Copyright 2006 by Annette Bornhäuser, Jennifer McCarthy, and Stanton A. Glantz. Permission is granted to reproduce this report for nonprofit purposes designed to promote the public health, so long as this report is credited. This report is available on the World Wide Web at <http://repositories.cdlib.org/ctcre/tcpmi/Germany2006>. This report is one of a series of reports that analyze tobacco industry campaign contributions, lobbying, and other political activity throughout the United States and elsewhere. Other reports on tobacco policy making are available on the World Wide Web at <http://repositories.cdlib.org/ctcre/>



## Executive Summary

- Though an international leader in environmental protection, Germany is one of the few industrialized nations in which the tobacco industry remains a legitimate force in business, government, science and society at large.
- The German tobacco industry has been successful in preventing the translation of knowledge of the dangers of secondhand smoke into effective public health policy through a carefully planned collaboration with scientists and policymakers and a sophisticated public relations program which it initiated in the 1970's and has been quietly running ever since.
- The tobacco industry in Germany founded the Verband der Cigarettenindustrie, a trade association, in 1948. Located in Germany's capital cities in order to as best as possible influence political decisions, the Verband includes all the multinational and national tobacco companies doing business in Germany (7 in 2006).
- In Germany, secondhand smoke emerged as a political issue in the early 1970s, but the federal government failed to enact a proposed statutory law on protection from tobacco smoke. To date, there has been no passage of effective legislation for the protection against tobacco in public places. Understanding that secondhand smoke was the crucial issue for the tobacco industry's viability, the Verband engaged the issue long before the German government and the main voluntary health agencies, leading to the industry's continuing success in preventing government action to protect citizens from the toxic chemicals in secondhand smoke.
- The Verband influenced science and policy by challenging the scientific evidence linking secondhand smoke to disease by conducting or financing research, recruiting independent scientists, influencing high-level working groups and commissions, and by coordinating, sponsoring and participating in scientific conferences.
- In 1975, the "Research Council Smoking & Health" was created as an advisory body to the scientific department of the Verband to convey the impression that the tobacco industry was committed to objective exploration and further development of its product. Research that was deemed to be too sensitive to be contracted to outside researchers was conducted in a laboratory in Munich, headed by Franz Adlkofer. In 1992, the Research Council was replaced when the Verband created the VERUM foundation with Adlkofer as Scientific and Executive Director.
- The Medical Action Group on Smoking or Health, a small nongovernmental organization active in the protection of nonsmokers since the 1970s founded by medical scientist Ferdinand Schmidt, made numerous attempts to influence governmental health policy in Germany. The tobacco industry successfully responded by framing the Medical Action Group and Schmidt as out of the mainstream.
- Probably the most important health authority allied with the tobacco industry from the 1980s onwards was Karl Überla, President of the German Federal Health Office until 1985 and simultaneously head of a private research institute, the GIS, in Munich. In 1982,

the Verband contracted with Überla's GIS for a study on "passive smoking and lung cancer."

- In 1983, a working group on smoking-related cancer risks was set up by the Federal Ministry of Health as part of Germany's contribution to the EU "Europe Against Cancer" program. Of the 24 members the Ministry invited to comprise this working group, at least five individuals, Franz Adlkofer, Dietrich Schmähle, Gerhard Lehnert, Klaus Thureau and Jürgen v. Troschke, had worked for or received funds from the Verband.
- Overall, the tobacco industry in Germany has been able to maintain a level of respectability that allowed it access to high-level authorities and scientists who either themselves held a policy-relevant office or served on political advisory bodies, including Karl Überla, President of the Federal Health Office, Dietrich Henschler, Chairman of the MAK-commission, and Helmut Valentin, President of the Bavarian Academy for Industrial and Social Medicine.
- Despite the fact that public attitudes in Germany were very supportive of government action to restrict smoking, the industry worked to cast tobacco control as a serious threat to the European culture that was portrayed as too open, modern and enlightened for such action.
- Secret tobacco industry polling showed even higher levels of support for smoking restrictions in Germany than in the United States; still, the German tobacco industry portrayed policies protecting workers from secondhand smoke as examples of US extremism. Several unsuccessful efforts to pass non-smoker protection legislation followed in subsequent years, and on October 3, 2002, a revised workplace ordinance took effect that nominally puts the duty on employers to protect their employees from secondhand smoke in the (non-hospitality) workplace; still, the ordinance overall failed to guarantee smokefree workplaces and as of January 2006, the German government had not established any meaningful program to promote implementation and enforcement of the ordinance.
- In 2003, approximately one-third (32.5%) of Germans were smokers. Recent data shows at least 9 persons die from passive smoking each day in Germany. As this calculation only takes into account frequent domestic exposure of nonsmokers, the actual death toll is likely to be much higher. Still, as of 2006, with few smokefree laws in place, none of the major voluntary health agencies in Germany had continuously made secondhand smoke a major topic.
- Public health policymaking in Germany remains dominated by tobacco interests.

## Kurzfassung

- Trotz seiner Führungsrolle im Umweltschutz ist Deutschland heute eines der wenigen industrialisierten Länder in denen die Tabakindustrie in der Geschäftswelt sowie vonseiten der Regierung, der Wissenschaft und der Gesellschaft im Allgemeinen als eine legitime Größe angesehen wird.
- Die Tabakindustrie in Deutschland hat es erfolgreich verstanden, die Umsetzung der Erkenntnisse über die Schädlichkeit des Passivrauchens in wirksame Gesundheitspolitiken zu verhindern. Sie bediente sich hierzu einer sorgfältig geplanten Kollaboration mit Wissenschaftlern und politischen Entscheidungsträgern, und eines ausgeklügelten PR-Programms das in den 1970er Jahren eingeleitet wurde und seitdem still betrieben wird.
- Die Branchenorganisation, der Verband der Cigarettenindustrie (VdC, kurz „Verband“) wurde im Jahr 1948 von der Tabakindustrie in Deutschland gegründet. Der Verband vertritt sowohl nationale als auch multinationale Tabakkonzerne, die in Deutschland ihre Geschäfte treiben und war bzw. ist in der bundesdeutschen Hauptstadt (Bonn, Berlin) ansässig, um politische Entscheidungen bestmöglich zu beeinflussen.
- Bereits in den frühen Siebzigerjahren wurde das Thema Passivrauchen in Deutschland zum Politikum, doch die Bundesregierung schaffte es nicht, einen damals existierenden Gesetzesvorschlag für eine Rechtsvorschrift zum Schutz vor Passivrauchen zu erlassen. Vielmehr hat die Bundesregierung es bis heute versäumt, eine wirksame Gesetzgebung zum Schutz vor Tabakrauch im öffentlichen Raum zu erlassen.
- Aufgrund der Einsicht dass Passivrauchen der entscheidende Faktor für Lebensfähigkeit der Tabakindustrie ist, hat sich der Verband bereits lange vor der Bundesregierung und den wichtigsten Organisationen im Gesundheitswesen und Interessengemeinschaften dieses Thema zu eigen gemacht. Dies hatte zur Folge, dass die Tabakindustrie Regierungshandeln zum Schutz der Bürger vor den giftigen Inhaltsstoffen des Tabakrauchs erfolgreich verhindert hat.
- Der Verband hat Einfluss auf Wissenschaft und Politik genommen indem er die wissenschaftlichen Erkenntnisse über den Zusammenhang von Passivrauchen und Krankheit bestritten hat, Forschungsarbeiten durchgeführt oder finanziert hat, unabhängige Wissenschaftler rekrutiert hat, Einfluss auf hochrangige Arbeitsgruppen und Kommissionen genommen hat sowie an wissenschaftlichen Tagungen teilgenommen, diese koordiniert oder finanziell gefördert hat.
- Im Jahr 1975 wurde der „Forschungsrat Rauchen und Gesundheit“ gegründet. Er diente der Wissenschaftlichen Abteilung des Verbandes als Beratungsorgan und sollte den Eindruck vermitteln, dass die Tabakindustrie sich der objektiven Erforschung und Weiterentwicklung seines Produktes verschrieben hat. Untersuchungen die als zu heikel galten, um sie an externe Wissenschaftler zu vergeben wurden in einem Labor in München durchgeführt das von Franz Adlkofer geleitet wurde. Im Jahr 1992 wurde der Forschungsrat Rauchen und Gesundheit ersetzt durch die vom Verband gegründete

Stiftung VERUM, deren Wissenschaftlicher und Geschäftsführender Direktor wiederum Adlkofer wurde.

- Der Ärztliche Arbeitskreis Rauchen und Gesundheit, eine kleine Nichtregierungsorganisation, die seit den 1970er Jahren im Bereich Nichtraucherchutz aktiv ist und von Ferdinand Schmidt gegründet wurde, machte zahllose Versuche, die Regierungspolitik Deutschlands zu beeinflussen. Die Tabakindustrie reagierte darauf - erfolgreich - damit, dass sie den Ärztlichen Arbeitskreis Rauchen und Gesundheit und Schmidt als jenseits der politischen Mitte darstellte.
- Vermutlich die wichtigste Autorität im Gesundheitsbereich, die mit der Tabakindustrie seit den 1980er Jahren verbündet war ist Karl Überla, bis 1985 Präsident des Bundesamtes für Gesundheit und zugleich Leiter einer privaten Forschungseinrichtung in München, der Gesellschaft für Information und Statistik in der Medizin (GIS). Im Jahr 1982 nahm der Verband Überla's GIS unter Vertrag für eine Untersuchung über „Passivrauchen und Lungenkrebs“.
- Im Jahr 1983 stellte das Bundesgesundheitsministerium eine Arbeitsgruppe über „Krebsgefährdung durch Rauchen“ zusammen, als ein Beitrag vonseiten Deutschlands zum EU-Aktionsprogramm „Europa gegen den Krebs“. Von den 24 Mitgliedern, die das Ministerium geladen hatte, hatten zumindest fünf Personen, Franz Adlkofer, Dietrich Schmähl, Gerhard Lehnert, Klaus Thureau und Jürgen v. Troschke für den Verband gearbeitet oder von diesem Finanzmittel erhalten.
- Im Großen und Ganzen ist es der Tabakindustrie in Deutschland gelungen, einen Grad der Angesehenheit aufrechtzuerhalten, die ihr Zugang zu hochrangigen Autoritäten und Wissenschaftlern verschaffte, die entweder selbst politikrelevante Ämter innehatten oder die als Sachverständige oder Mitglieder von wissenschaftlichen Beiräten direkten Zugang zur Politik hatten. Beispiele hierfür sind Karl Überla, Präsident des Bundesgesundheitsamtes, Dietrich Henschler, Vorsitzender der MAK-Kommission, und Helmut Valentin, Präsident der Deutschen Gesellschaft für Arbeitsmedizin sowie der Bayrischen Akademie für Arbeits- und Sozialmedizin.
- Trotz der Tatsache, dass die Einstellung der deutschen Bevölkerung Einschränkungen des Rauchens deutlich unterstützt, war die Tabakindustrie bemüht, die Tabakkontrolle als eine ernsthafte Bedrohung für die Europäische Kultur darzustellen, indem diese als zu offen, modern und aufgeklärt für derartige Aktivitäten porträtiert wurde.
- Ungeachtet der Tatsache, dass Umfragen die von der Tabakindustrie durchgeführt und geheim gehalten wurden für Deutschland sogar eine stärkere Befürwortung von Einschränkungen des Rauchens zeigten als in den Vereinigten Staaten, karikierte die Tabakindustrie in Deutschland Maßnahmen zum Schutz der arbeitenden Bevölkerung vor Passivrauch als US-amerikanischen Extremismus.
- Etliche erfolglose Anläufe zur Verabschiedung eines Nichtraucherchutzgesetzes folgten in den Jahren darauf und am 3. Oktober 2003 trat die novellierte Arbeitsstättenverordnung in Kraft, die die Arbeitgeber nominell dazu verpflichtet, ihre Angestellten am Arbeitsplatz vor dem Tabakrauch zu schützen (ausgenommen sind Arbeitsstätten mit Publikumsverkehr). Durch diese Verordnung werden jedoch übergreifend keine rauchfreien Arbeitsplätze geschaffen und bis Januar 2006 hatte die Bundesregierung noch kein bedeutsames Programm aufgelegt um die Umsetzung und Vollzug der Verordnung zu fördern.

- Im Jahr 2003 waren nahezu ein Drittel (32,5%) der deutschen Bevölkerung Raucher, neueste Daten zeigen, dass in Deutschland täglich mindestens neun Menschen an den Folgen des Passivrauchens sterben. Da dieser Berechnung lediglich die häufige Exposition von Nichtrauchern zu Hause zugrunde liegt, ist die wirkliche Zahl der Todesopfer wahrscheinlich deutlich höher. Dennoch garantieren bisher nur wenige Gesetze Rauchfreiheit und auch sonst hat bis heute keine der wichtigsten Gesundheitsorganisation in Deutschland sich kontinuierlich dem Passivrauchen angenommen bzw. dieses zu einem Hauptthema gemacht.
- Die Gesundheitspolitik wird in Deutschland bis zum heutigen Tag von Tabakindustrieinteressen dominiert.



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## Introduction

Secondhand smoke poses a serious problem for the tobacco industry because as public awareness about its detrimental health effects increases, the demand for smoke-free indoor air laws increases, contributing significantly to reductions in smoking<sup>1</sup> and tobacco industry revenues. With a history of strong science and public support for a clean environment, it is surprising that widespread smokefree policies do not exist in Germany today. Rather, the federal government of Germany has historically supported tobacco interests.<sup>2</sup> There is no general law in Germany creating smoke-free public places and implementation of nominal controls is left to individual entities and institutions. Except for public transport, the existing nominal controls on public smoking are rarely strictly enforced. Additionally, no current data exists to confirm widespread implementation of the revised workplace ordinance of October 2002 (Arbeitsstättenverordnung), which nominally required that employers protect nonsmokers from secondhand smoke in the workplace.

Previously secret tobacco industry documents demonstrate how the tobacco industry successfully inhibited tobacco regulation in Germany for decades by means of carefully planned collaboration with selected scientists and policymakers and a sophisticated public relations program. The German tobacco industry has been represented by its National Manufacturing Association, the Verband (Verband der Cigarettenindustrie), since 1948. While substantial concern over secondhand smoke existed as early as the 1970s, the cigarette manufacturers, represented by the Verband, understood that secondhand smoking was *the* crucial issue for their viability. They acted upon the threat of secondhand smoke long before the German government and the main German voluntary health agencies, and the tobacco industry prevailed. Indeed, as of 2006 none of the major voluntary health agencies in Germany had continuously made secondhand smoke a priority issue.

## Methods

Between June 2003 and October 2004, we searched the following tobacco industry document sites, made available as a result of litigation in the United States: 1) the UCSF Legacy Tobacco Documents Library: [www.legacy.library.ucsf.edu](http://www.legacy.library.ucsf.edu), 2) Philip Morris: <http://www.pmdocs.org>, 3) British American Tobacco: [www.bat.library.ucsf.edu](http://www.bat.library.ucsf.edu) and 4) Tobacco Documents Online: [www.tobaccodocumentsonline.org](http://www.tobaccodocumentsonline.org). Analysis used standard document search strategies.<sup>3</sup> Initial search terms included “German\*”, “Secondhand smoke”, “ETS” (environmental tobacco smoke, the tobacco industry’s acronym for secondhand smoke) and their German equivalents, including misspellings. Further searches included organizations, names, and events, such as: “Verband (der Cigarettenindustrie)” and “VdC” (acronym for the Verband), “Bundestag” (lower house of German Parliament) and “DEHOGA” (German Hotel and Restaurant Association). We followed up with detailed searches on organizations, institutions and individuals that were identified in the initial searches. Standard, widely-accepted document search strategies were used to acquire reliable data within the tobacco collections and case methodology typically used in documents research including the dependence upon triangulation of findings was relied upon for analysis of retrieved data.<sup>3</sup>

Secondary source materials included media (newspaper and magazine) reports, scientific papers, governmental agency reports, original reports of surveys discussed in this paper and personal archives that were made available to the authors. Three interviews were conducted by one of the authors (A.B.) with individuals who were part of the public health administration throughout some of the time periods reported and in positions that dealt with the topic of

secondhand smoke (Rudolf Neidert, an employee of the Federal Health Ministry until the 1990s, and Burkhard Junge, an employee of the then-existing Federal Health Office), and with Ernst-Günther Krause, the Vice President of the German Nonsmokers Initiative and active in smokefree issues since the early 1980s. The data from these interviews were used to provide additional context on industry activities that had been identified in the documents as well as to identify issues, events and materials that did not appear in the documents. Interviews were conducted with key informants in accordance with a protocol approved by the University of California Committee on Human Subjects.

The German language documents were translated by one of the authors (A.B.), and the English language documents are quoted verbatim.

All events and references to government bodies, cigarette companies, other institutions and survey data refer to West Germany before German reunification in 1990.

## **The Tobacco Industry in Germany**

### **The Verband**

In 1954, the U.S. tobacco manufacturers founded the Tobacco Institute (TI) to represent the tobacco industry's political interests, and the Tobacco Industry Research Committee (later renamed Council for Tobacco Research) to influence the scientific community and to support the public relations claims that they were addressing the "smoking and health controversy."<sup>4</sup> In Germany, these two functions, political and scientific, were combined into an organization called the Verband der Cigarettenindustrie (Verband or VDC; Figure 1), established in 1948 as a trade association. Paralleling the development of the Tobacco Industry Research Committee and Tobacco Institute in the United States, the Verband was reorganized in 1954 to include 10 multinational and national tobacco companies including Philip Morris (PM), British American Tobacco (BAT), Reemtsma, Martin Brinkman, Hans van Landewyck, and Austria Tabak.<sup>5</sup> In 1990, the Verband moved from Hamburg, Germany to Bonn, then Germany's capital, in order to "guarantee highest efficiency in influencing political decisions."<sup>6</sup> In 2001, the Verband again relocated to the new capital, Berlin, to remain at the center of political power in Germany.

### **Research**

The Verband has had its own scientific department since 1953,<sup>7</sup> which is overseen on the board level by the Science and Policy Committee (Wissenschaftspolitischer Ausschuss - WPA; Figure 1). As a confidential Verband "structure and progress report" reveals, the purpose of the WPA was "initiating scientific and other work necessary in order to maintain social acceptance of smoking in public."<sup>8</sup> As the tobacco industry realized early on, the acceptability of smoking has been intrinsically linked to the issue of secondhand smoking. Thus, secondhand smoke was one of the top issues on the agenda of the WPA for many years.<sup>9,10,11</sup>

The Verband conducted its own research in an Internal Research Institute in Hamburg (Institut der Wissenschaftlichen Forschungsstelle), that was shut down in 1975 because Verband representatives felt they lacked control over it.<sup>12</sup> The Research Institute was replaced by a research funding agency, the Research Society Smoking and Health (Forschungsgesellschaft Rauchen und Gesundheit), which handled funds for research performed on behalf of the tobacco industry by universities or laboratories contracted directly by the Verband through its Research Council Smoking and Health.<sup>13</sup>

## VDC COMMITTEES AND INSTITUTIONS



**Figure 1: Verband Structure (in 1990).** The WPA (Wissenschaftspolitischer Ausschuss, Science and Policy Committee and PRA (PR-Ausschuss, Public Relations Committee) are the two committees dealing with public relations. The TWA (Technisch-Wissenschaftlicher Ausschuss, Technical-Scientific Committee) deals with common technical and scientific problems concerning the cigarette industry. The “Kleine Kommission” deals with legal and tax issues <sup>5</sup>

The Research Council Smoking and Health (Forschungsrat Rauchen und Gesundheit), an advisory body to the Scientific Department of the Verband, was founded in 1975 and, similar to its US-equivalent the Scientific Advisory Board of the American CTR, <sup>14</sup> represented an effort by the tobacco manufacturers to indirectly fund research projects recommended by a committee of prestigious scientists favouring the tobacco industry. <sup>15</sup> It was self-serving, paying six of its members 53% of the funds in its first working period (1976-1979) and frequently published its research in (supplements of) a widely read medical journal, the “Klinische Wochenschrift.” <sup>16-18</sup> As was stated at the annual assembly of the Verband in 1983, the Verband thereby secured the cooperation of prominent scientists which would not be affected by the criticism of “anti-smoking circles.” <sup>19</sup>

The Research Council was to convey to the public the impression that the tobacco industry was committed to objective exploration and further development of its product. Internally, however, its rationale was described quite differently: Franz Adlkofer, Scientific Secretary of the Research Council from 1976 to 1992 and Director of the Verband’s Scientific Department from the late 1970s until 1995, at a meeting of the Verband’s Scientific Committee, reported that:

he expected the work of the new Forschungsrat [Research Council] to be neither beneficial nor detrimental to the interests of the industry, and *its prime significance being that of a positive public relations effect.* [emphasis added] <sup>20</sup>

Research that was deemed to be too sensitive to be contracted to outside researchers was conducted in a laboratory in Munich, headed by Franz Adlkofer. <sup>21</sup> In 1992, Adlkofer became

secretary of the tobacco industry's new foundation VERUM, the successor of the Research Council. VERUM represents a reincarnation of the Research Council, with no change in scientist membership at the time it was set up.<sup>22</sup> The term VERUM, the Latin term for "true", is made up of the first two syllables of the words VER-halten i.e., behaviour and UM- welt i.e., environment". According to the VERUM website (www.verum-foundation.de), the foundation "focuses on the promotion of basic research with the potential for improving the living conditions of mankind. VERUM thus paves the way for discoveries of permanent value (..)“. Interestingly, smoking is not mentioned in VERUM's charter,<sup>25</sup> obscuring direct ties to the industry. Ernst Brückner, then Verband Managing Director, explained the reason for the modification of the Research Council's organizational structure at a Verband Board meeting in October 1990:

The members of the present Research Council are exposed to manifold hostility, both in the public and in politics and administration ... and therefore they all are firmly of the opinion *that only a foundation could lend them the appearance of independence which they need.* [emphasis added]

... die Mitglieder des jetzigen Forschungsrates mannigfachen Anfeindungen sowohl in der Öffentlichkeit als auch in Politik und Verwaltung ausgesetzt seien ... und deshalb seien sie alle der festen Überzeugung, daß *nur ein Stiftungsmodell Ihnen die optische Unabhängigkeit gewähre, derer sie bedürfen.*<sup>9</sup>

A March 1992 memo, by E. Brückner, on the research purpose of VERUM reveals that the Verband expected one of the exploratory focuses of the foundation to be on the consequences of passive smoking and that "objective researchers" expected results which could exonerate the tobacco industry.<sup>26</sup>

## Public relations

Strong public relations were critical to the Verband, which relied on a PR committee (PR-Ausschuss, PRA) to "ensure that the public has a positive perception of the German cigarette industry."<sup>8</sup> A "strictly confidential" report written in 1979 by St. Aubyn, Manager of Public Affairs at the British Tobacco Advisory Council, regarding his visit to the Verband in 1979, described the Verband's public relations philosophy:

VdC do not retain a firm of Public Relations Consultants as, in HK's [Harald König, a Verband employee] words, P.R. is too small in a world and is overpopulated with loose tongued employees. Therefore, the two agents [referred to without names in a different paragraph of the same document] are one-man operations chosen for their total discretion as much as for their expertise and who stand or fall by the results they produce ... *publishing activities are concentrated on the placement of articles which will reassure smokers, show up anti-smoking zealots and accentuate the social acceptability of smoking,.... these activities are contracted to a public relation agent who knows people in the right places but has no visible connection with the industry.*<sup>27</sup> [emphasis added]

In the mid 1970s, the Verband founded its own leaflet press review, the "International Tobacco Science Information Service" (Internationaler tabakwissenschaftlicher Informationsdienst, iti), to produce tobacco-friendly information on smoking and health. It was first disseminated in 1976 and had a circulation of 1500, targeted at journalists, health officials, politicians and public opinion leaders. These publications reported every three weeks on research "favourable or at least neutral to the tobacco industry, but which the tobacco industry cannot directly say for themselves [sic]."<sup>27</sup> Yet, the entire costs were borne by the Verband. To avoid suspicions that it might be sponsored by the tobacco industry, it was offered at a subscription price and the reports were spread to the press under the acronym "iti."<sup>28</sup> At least three issues in the late 1980s included articles designed to indicate that there was a controversy about the health dangers of secondhand smoke.<sup>29-31</sup> The production of this kind of media material is an ongoing strategy of the tobacco industry.<sup>32,33</sup>

## Secondhand smoke emerges as a public issue in Germany

The hypothesis that secondhand smoke damages human health was first advanced in Germany in the late 1920s by anti-smoking internist Fritz Lickint<sup>34</sup> and the term for sidestream smoke, “Nebenstromrauch” had been coined in Germany in 1909 (Table 1).<sup>35</sup>

In the United States, the first formal government recognition that secondhand smoke was a problem came in 1971, when the US Surgeon General called for a “nonsmokers bill of rights” at the end of his press remarks releasing the 1971 Surgeon General Report on Smoking and Health. According to one tobacco document, he declared:

Finally, evidence is accumulating that the nonsmoker may have untoward effects from the pollution his smoking neighbour forces upon him ... It is high time to ban smoking from all confined public places such as restaurants, theatres, airplanes, trains and buses (J. Steinfeld, as quoted in “response to claims about the effects of smoking on nonsmokers.”<sup>36</sup>)

The following year, for the first time, the Surgeon General’s report included a chapter on secondhand smoke. The report concluded that tobacco smoke can “contribute to the discomfort of many people.”<sup>37</sup>

In Germany, the issue of secondhand smoke had actually emerged several years earlier. In 1968, two representatives of a German cigarette manufacturer wrote a letter to Frank Colby of Reynolds Tobacco regarding “danger to nonsmokers by nicotine.”<sup>38</sup> The letter addressed a published MAK-value for nicotine, indicating that the inclusion of nicotine into the MAK-list was a significant topic at the time. The “MAK-list” (list of “maximum permissible concentrations of noxious compounds in the workplace”) is annually published by the MAK-commission, the Commission for the Investigation of Health Hazards of Chemical Compounds in the Work Area (MAK = Maximale Arbeitsplatz Konzentration). The MAK-commission is a Scientific Advisory Committee of the German Research Society (Deutsche Forschungsgemeinschaft), the central, self-governing research organization that promotes research at universities and other publicly funded institutions in Germany) While the MAK-commission does not have actual regulatory power, the MAK-list represents the scientific foundation for health protection from toxic substances in the workplace. When the MAK commission forms an opinion, this opinion is referred to the Committee on Hazardous Substances (Ausschuss für Gefahrstoffe - AGS). This committee advises the Federal Ministry of Labor on measures regarding occupational safety and health such as the classification and labeling of hazardous substances in the workplace, and establishing permissible exposure limits. Apart from the submitted scientific evidence, the AGS evaluates the technical feasibility and economic consequences of regulatory actions. In general, the AGS adopts the risk assessments made by the MAK-commission. The evidence suggests that the MAK-commission and the federal government proposals of the early 1970s alerted the Verband to the threat of passive smoking before the multinational companies had recognized its importance.

A representative from the MAK-commission reported that nicotine and tobacco smoke in the workplace had been discussed by the commission in a plenary session on 10 October 1969 in response to an enquiry from the Federal Minister of Occupation.<sup>39</sup> As a result of the discussion, the commission had recommended a restriction of smoking in the workplace because of the uncertainty of the effects of tobacco smoke for the nonsmoker. A further 1969 statement by the MAK-Commission, namely that the carcinogenic action of tobacco smoke could not be ruled out in secondhand smoke is referred to in the federal government’s answer to a brief parliamentary enquiry about the consequences of cigarette smoking dated May 5, 1975.<sup>40</sup>

<b>Table 1. Key Events and Players Affecting Tobacco Control in Germany</b>			
<b>Year</b>	<b>Scientific and Public Health</b>	<b>Tobacco Industry</b>	<b>German Government</b>
1909	The term for sidestream smoke, “Nebenstrom,” is coined in Germany		
1929	Fritz Lickint published the first formal statistical evidence linking tobacco and lung cancer		
1948		Verband der Cigarettenindustrie formed by domestic German tobacco companies	
1954		Verband expanded to include multinational tobacco companies	
1968-1969	MAK-commission recommends restricting smoking in the workplace in response to enquiry from Federal Minister of Occupation.  Inclusion of nicotine into list of toxic compounds discussed.	German cigarette manufacturers correspond with Frank Colby of RJR regarding secondhand smoke and threat of nicotine’s inclusion in list of toxic compounds	
1971	Medical Action Group on Smoking or Health (NGO) (founded by Director of Research Center for Preventive Oncology in Mannheim, Ferdinand Schmidt); calls for statutory protection of nonsmokers		
1973-1974	Medical Action Group on Smoking or Health organizes the first German Nonsmokers Conference	Tobacco industry frames Schmidt’s work as “peculiar” working through third parties and medical journals; attacks continued into the 1990s	First indication of high-level political concern about secondhand smoke; identified protection of nonsmokers as urgent during debate about revision of German Food Law. The Bundestag passed a resolution to have the federal government prepare a comprehensive program for the protection of nonsmokers, but did not follow through with meaningful action
1975		Verband published a SHS brochure, (1.3 million copies) designed to “prove” that passive smoking did not damage health of non-smoker	North Rhine-Westphalia (federal state) issued decree to protect non-smokers in public offices, but onus rested on nonsmoker to request tobacco-free air
1976		Verband began distributing regular informational leaflets to the press promoting tobacco-friendly information	



<b>Table 1. Key Events and Players Affecting Tobacco Control in Germany</b>			
<b>Year</b>	<b>Scientific and Public Health</b>	<b>Tobacco Industry</b>	<b>German Government</b>
		on smoking and health	
1977-1978		<p>The industry arranges for the health effects of passive smoking to be debated at a Munich scientific conference, which concludes that SHS was not harmful and warranted no legislation</p> <p>Verband PR efforts reached over one billion copies and successfully reached the press, politicians, and scientists</p> <p>Industry's "Smoking and Health Report" on government and Verband activity showed success in defusing public debate surrounding the danger of smoking and secondhand smoke</p>	<p>A program for the (voluntary) protection of nonsmokers is released by German Health Minister. This program replaced an actual law drafted in the mid-1970s based on the industry-sponsored conference's SHS conclusions. The Government stated that it did not deem legislative protection of nonsmokers necessary at this time.</p> <p>The federal State of Baden-Württemberg approved a non-smoker protection plan containing measures related to work, public transport and public institutions. This plan gave the non-smoker some freedom to insist his or her employer take action to prevent detrimental health effects related to tobacco, but there was no active enforcement.</p>
1980	<p>A MAK commission member suggested adding SHS to the MAK list; Chairman Henschler, recipient of RJR research funds in the late 1970s, did not support this request</p> <p>White and Froeb (in the US) publish the first study showing that secondhand smoke adversely affected pulmonary function in healthy nonsmokers. This paper was the first evidence that SHS harmed adults.</p>	<p>RJR's Associate Director of Scientific Issues, Frank Colby, reported he had reasonably reliable, very confidential information that the German government was prepared to condemn implications of the White and Froeb study.</p>	<p>When asked if passive smoking would cause lung cancer in nonsmokers, the Health Ministry's spokesman suggested epidemiological research did not support this assertion.</p>
1981	<p>Secondhand smoke linked to lung cancer by Hirayama.</p>	<p>The German industry organizing a scientific conference on public smoking because of the government's endorsement of White and Froeb's study.</p> <p>Verband published a full-page advertisement in the <i>STERN</i> attacking Hirayama's findings on lung cancer</p>	<p>A report in drafting form available from one of the Divisions of the German Health Ministry endorsing White and Froeb study's findings on SHS and adverse health effects</p>

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<b>Year</b>	<b>Scientific and Public Health</b>	<b>Tobacco Industry</b>	<b>German Government</b>
1982		Verband contracts with Karl Uberla's private research institute, GIS, to do a study on passive smoking and lung cancer	
1983		At a National Manufacturing Organizations meeting held in Washington D.C., Verband discusses importance of passive smoking to industry's PR	Federal Ministry of Health sets up a working group on smoking-related cancer risks to advise the federal government; at least 5 of 24 invited members had worked for or received funds from the Verband
1985	The MAK-commission concludes that a cancer risk should be assumed due to SHS's mixture of carcinogenic substances, but only recommended preventive measures in heavily contaminated workplaces; while SHS was included, it was not formally declared an occupational substance	Verband considers taking legal steps against the inclusion of SHS into the MAK-list; instead works to classify SHS under a less conspicuous section	Working group on smoking-related cancer risks supports the government's attitude that modification of the nonsmoker's protection program was unnecessary based on lacking proof of the carcinogenic effects of smoking in the MAK list's outlined text
1986	US Surgeon General's Report, The Health Effects of Involuntary Smoking, released.		
1987-1990	Ferdinand Schmidt, chairman of the Medical Action Group on Smoking and Health, reproaches the federal government for failing to protect nonsmokers; he attributes this failure to tobacco industry opposition  SHS was considered a health hazard by a greater proportion of the West-German population than the US population and 49% of the German population favored government-regulated smoking restrictions in public places	Verband board meeting (1990) minutes show government action plan had deleted strong guidelines in earlier drafts, instead recognizing industry's contribution to smoking reduction through product modification. Verband plans a major PR offensive on secondhand smoke with political intervention since it realized SHS was widely understood as a risk.  German industry acknowledged its successful positioning through PR and political lobbying.	Government paper summarizing action plan for promotion of non-smoking underway (1987) is watered down over several drafts and quietly released with weak recommendations and no mention of federal government (issued as a paper of the Federal Ministry of Health).
1991		American intolerance message believed to be working well as an argument against tobacco control in Europe.  Managing Director of the Verband suggests that	

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<b>Year</b>	<b>Scientific and Public Health</b>	<b>Tobacco Industry</b>	<b>German Government</b>
		Germany is the only scientific community that has held open the question of health hazards and smoking when the damage is doubtless, and this is thanks to Verband scientific directed Adlkofer and the collaboration of industry and science.	
1994			Forty-one Bundestag members draft a bill for federal nonsmoker protection legislation. It receives mostly negative press and does not pass in spite of popular support
1998	<p>After an industry-influenced delay, the MAK-commission places SHS in category A1, “Substances which are definitely carcinogenic to humans and which can be expected to contribute substantially to cancer risk.”</p> <p>The German Nonsmokers Initiative reports in a press that Burke AG, the survey institute conducted a poll showing over three-thirds of Germans did not want new legislation, had close links to the Institute of the Germany Industry which produced the economic study claiming the bill would hurt the economy. The Nonsmokers Initiative also suggested the poll results were in stark contrast with all other surveys carried out on the subject.</p>	<p>The Verband’s submission of new data and Adlkofer’s influence achieved a success for the tobacco industry through the postponement of a vote by the MAK-commission on SHS’s revised placement in the MAK list.</p> <p>Results were released in a major German newspaper less than a month before a final Parliamentary vote from a study commissioned by the tobacco industry suggesting the cost to German businesses of a law to protect against smoking would be 33 billion (US \$16 billion).</p> <p>A 1998 survey is published reporting that over three-thirds of Germans did not want new legislation.</p>	The final vote on a federal nonsmoker law is defeated on February 5, 1998, prior to the MAK-commission’s vote regarding the revised placement of SHS in the MAK list, originally slated for January 29 before an industry-influenced delay
2001-2002		At a Verband Science and Industry Policy Committee meeting, Verband representatives expressed pleasure over the fact that SHS was no longer a pressing topic in Germany	A weak ordinance nominally providing workplace protection was passed after failed attempts at comprehensive nonsmoker protection in two previous Parliamentary sessions
2005		The law represents a victory for the tobacco industry, as the government can claim the issue of smoking has been addressed without requiring major changes in the status quo.	No meaningful program to promote implementation of the revised workplace law in existence.

In 1974, the Federal Health Office (Bundesgesundheitsamt) pointed out that diseases such as inflammations of the mucosa, bronchitis and inflammations of other parts of the respiratory passages can be induced by tobacco smoke in nonsmokers and that the exposure to secondhand smoke entails the intake of potential carcinogens.\*

The first indication of high-level political concern about the detrimental effects of secondhand smoke among members of the Federal Parliament is evident from an answer to a December 13, 1973 brief parliamentary enquiry made during the debate about the revision of the German Food Law.<sup>41</sup> The enquiry was put forward by several deputies from the Christian Democratic Party (CDU), which was the opposition at the time. Brief parliamentary inquiries are written questions put forward by members of the German Bundestag (lower house of the parliament) to the federal government. The answers to these inquiries are drafted or consented with the responsible or relevant Ministries. The government answered on May 9, 1974:

The health policy necessity to act in this field is apparent from the following conclusions: 1. Smoking is absolutely harmful to health... Every single cigarette, cigar, pipe tobacco is harmful to health.... *Finally, there are justified claims for a comprehensive protection of nonsmokers, because it must be assumed with ample certainty that the health damages which are established in smokers can, in weakened form but fundamentally the same, occur also by "passive smoking."* ... Although the data on the real danger of "passive smoking" is insufficient as of yet, a conclusion by analogy must be permitted that this danger is real. *The Federal Government does not have to act on the assumption of an abstract notion of danger, the concrete danger can be taken for granted. It would be irresponsible to wait until a "rash" of sick persons, people incapable of working and dead can be exhibited that fell victim to passive smoking.* [emphasis added]

Die gesundheitspolitische Notwendigkeit, auf diesem Gebiet tätig werden zu müssen, ergibt sich aus den folgenden Feststellungen: 1. Rauchen ist absolut gesundheitsschädlich ... Jede einzelne Zigarette, Zigarre, Pfeife Tabak [sic] ist gesundheitsschädlich ... Schließlich gibt es berechtigte Forderungen nach einem umfassenden Nichtrauchererschutz, weil mit hinreichender Sicherheit angenommen werden muß, daß die für den Raucher nachgewiesenen gesundheitlichen Schädigungen in abgeschwächter Form, jedoch grundsätzlich gleich, auch durch „Passivrauchen“ eintreten können. ... Obwohl bisher nur ungenügende Daten über die tatsächliche Gefährdung durch „Passivrauchen“ vorliegen, muß als Analogieschluß zugelassen werden, daß es diese Gefährdung tatsächlich gibt. Die Bundesregierung braucht hier nicht von einem abstrakten Gefährdungsbegriff auszugehen, die konkrete Gefährdung kann als gegeben angenommen werden. Es wäre unverantwortlich, wenn so lange gewartet würde, bis tatsächlich eine „Strecke“ an Kranken, Erwerbsunfähigen und Toten vorgewiesen werden kann, die dem „Passivrauchen“ zum Opfer gefallen sind.<sup>42</sup>

In June 1974, the German Bundestag\* (the lower house of the parliament) was requested by the Parliamentary Committee for Youth, Family and Health to use the adoption of the revised food law as an occasion to point out the significance of the protection of nonsmokers from the annoyances and dangers of second hand tobacco smoke. The Bundestag in turn passed a

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\* This statement of the Federal Health Office is referred to in the federal government's answer dated May 5, 1975 to a brief parliamentary enquiry about the consequences of cigarette smoking.<sup>40</sup> A copy of the original Federal Health Office document is unavailable as this agency was dissolved in the nineties and its archives are inaccessible in 2004.

\* The Bundestag (lower house) passes federal laws, many of which need approval by the Bundesrat (upper house) in which the Federal States of Germany are represented. The German Chancellor heads the government.

resolution calling on the federal government to prepare a comprehensive program for the protection of nonsmokers. The official record (Bundestagsdrucksache 7/2243) reads:

The Federal Parliament takes the occasion of the reform of the food-law to point out the significance of the protection of nonsmokers from the annoyance and dangers of tobacco smoke. *It calls on the Federal Government to develop a comprehensive program for the protection of nonsmokers with the aim of protecting the health concerns of nonsmokers in the different settings of life.* [emphasis added]

Der Bundestag nimmt die Verabschiedung der Gesamtreform des Lebensmittelgesetzes zum Anlass, auf die Bedeutung des Schutzes der gesundheitlichen Belange der Nichtraucher vor Gefährdungen und Belästigungen durch Tabakrauch hinzuweisen. *Er fordert die Bundesregierung auf, ein Gesamtprogramm „Nichtraucherschutz“ mit dem Ziel zu entwickeln, verstärkt die gesundheitlichen Belange der Nichtraucher in den verschiedenen Lebensbereichen zu schützen.*<sup>43</sup>

For the mid-1970s, this was a very progressive statement. The federal government, however, failed to carry through with meaningful action. Rather than acting on the strongly worded conclusions in its reply to the Brief parliamentary enquiry of 1974, it was not until 1978 that a program for the protection of nonsmokers (Nichtraucherschutzprogramm) was released.<sup>44</sup>

In early 1975, another brief parliamentary enquiry about the consequences of cigarette smoking was submitted by several deputies of the Christian Democratic Party (CDU) to the federal government. Referring back to the federal government's answer to the brief enquiry from 1974, the deputies included questions about the effects of smoking during pregnancy and on children exposed to tobacco smoke by their parents as well as several questions about the improvement of the protection of nonsmokers in the custody of federal authorities, in restaurants, on public transportation, and in hospitals. The government responded<sup>40, 45</sup> that with no uncertainty, smoking during pregnancy is harmful for the unborn and that children exposed to parents' tobacco smoke suffer diseases of the respiratory tract twice as often as children of nonsmokers. It also referred back to the 1969 Statement of the MAK-Commission and 1974 Statement of the Federal Health Office, reinforcing the notion that the nonsmoker is exposed to an "additional environmental burden" which would justify preventive measures. Regarding improving protection for nonsmokers, the federal government referred to the pending program for the protection of nonsmokers, within which the need for additional measures would be examined.

H. Schenzer, then Verband's Managing Director, tried in vain to impede the submission of this 1975 brief parliamentary enquiry because the tobacco industry had already recognized that public concern about the dangers of secondhand smoke could undermine the social acceptability of smoking and reduce cigarette sales. On November 25, 1974 he wrote a letter to the CDU/CSU (Christian Social Union) suggesting that rather than calling on the government to make a judgment on the health impact of secondhand smoke, an expert commission should examine whether secondhand smoke was actually a health risk.<sup>46</sup> We found no account of the appointment of such a commission. Interestingly, Ferdi Breidbach, one of the CDU deputies that submitted both the 1974 and 1975 brief inquiries became a Philip Morris employee in the early 1980s and, later, its Chief of Press.

In the mid 1970s, the only nongovernmental organization (NGO) that continuously brought up the issue of secondhand smoke was the Medical Action Group on Smoking or Health (Ärztlicher Arbeitskreis Rauchen und Gesundheit). Founded in 1971 by medical scientist and Director of the Research Center for Preventive Oncology in Mannheim, Ferdinand Schmidt, the action group was still existent in 2006. Under Schmidt's lead, the Medical Action Group made numerous attempts to influence governmental health policy. By the late seventies, this group had roughly 1,000 members and an annual budget of approximately DM 40 000 (US\$20,000), mostly from donations and membership fees. As early as 1972, the Medical Action Group called for the

statutory protection of nonsmokers in its program against smoking (10-Punkteprogramm gegen das Rauchen).<sup>47</sup> Two years later, in November 1974, the Medical Action Group organized the first German Nonsmokers Conference. The conference called on the federal government to issue an emergency program against smoking (Notprogramm gegen den Zigarettentod) in which smokefree policies were requested for the workplace, restaurants, and public transport. Over the years, the group also gave legal assistance to nonsmokers going to court; attempted to reveal links between the tobacco industry, science, and politics; and issued publications for public and professional audiences on the health risks of secondhand smoke.<sup>48,49</sup>

The tobacco industry, by way of its representatives or medical journals that repeatedly presented a forum for the industry, responded by framing the work of Ferdinand Schmidt, the Medical Action Group's founder, as peculiar and without the support of the larger body of science. While it appears that in the mid-1970s, Schmidt had enjoyed the full support of the Federal Health Ministry,<sup>50</sup> both as an academic and an advocate for tobacco control,<sup>51-53,54</sup> this attack impacted government health administrators' ideas about Schmidt and continued into the 1990s. In 1986, for instance, Schmidt was expelled from a ministerial working group. A specific example of industry efforts against Schmidt occurred in 1991 when Manfred Körner, long-time PR head of the Verband, informed the Verband's managing directors of an upcoming editorial in a widely read medical journal ("Der Kassenarzt") criticizing Schmidt. The author was Editor-in-Chief Peter Udelhoven, an individual who had frequently written industry-friendly pieces.<sup>55,56,57</sup> Körner explained that this editorial, in which several of Schmidt's remarks about links between certain scientists and the tobacco industry were cited and derided as completely outlandish and unfounded, was to be placed at a large medical fair:

Dear colleagues, this smoky editorial of the KASSENARZT about the peculiar behaviour of Prof. Schmidt just appeared in the newest issue and middle of next week will be delivered to about 50,000 practitioners and internists. But what is even better: This issue will be at the MEDICA in Wiesbaden on 9<sup>th</sup>/10<sup>th</sup> of April. I hope that this action will materialize. [emphasis in original]

Liebe Kollegen, dieses rauchige Editorial des KASSENARTZES über das seltsame Gebaren des Herrn Prof. Schmidt ist soeben in der neuesten Ausgabe erschienen und wird Mitte nächster Woche an rund 50.000 Praktiker und Internisten gehen. Was aber noch schöner ist: Diese Ausgabe wird auch bei der MEDICA in Wiesbaden am 9./10.4. ausliegen. Ich hoffe, die Aktion conveniret.<sup>58</sup>

The aggressive campaign against Ferdinand Schmidt can be traced back to the fact that the tobacco industry had quickly realized that the emergence of secondhand smoke as a topic of interest represented a serious problem.<sup>59</sup> In 1982, Adlkofer, Scientific Director of the Verband, said at a meeting on passive smoking research held at the Verband that "the Verband considered passive smoking to be the industry's most serious problem."<sup>60</sup> In September 1983, a Verband employee started his presentation at a meeting of National Manufacturing Organizations in Washington D.C. with the words:

Ladies and Gentlemen, you all know the importance of the "Passive Smoking" issue for our prime PR-problem which is the social acceptability of smoking. The war declared on smoking and the tobacco manufacturers ... would become a deadly threat to the long-term survival of our industry if passive smoking could be proven a real health hazard.<sup>61</sup>

## **Government Action for the Protection of Nonsmokers**

The level of sympathy that the federal government exhibited regarding the tobacco industry at the time is perhaps best reflected in a 1975 Philip Morris inter-office correspondence about a March 19 German television program which reported that: "Mrs. Focke, Minister of Health, would be quite alone in the Cabinet [on tobacco control issues], because most of the

members are smokers; on the top the Chancellor, Helmut Schmidt, the top puffer of the nation.”<sup>62</sup> Yet, at the state level, several ordinances were successfully passed in the 1970s in states like Bavaria, Baden-Württemberg and North Rhine-Westphalia. In the state of Baden-Württemberg a 1975 administrative ordinance was issued prohibiting smoking in all publicly accessible government offices and on public transportation. As a result of this ordinance, nonsmokers could insist that their employer take action to prevent detrimental health effects from tobacco smoke at work. The tobacco industry referred to this ordinance as “nonsense [to your attention to] illustrate[ing] some of the extremes of this (passive smoking legislation) controversy in Germany.”<sup>63</sup>

Also in 1975, the Minister of Occupation, Health and Social Affairs of the German Federal State of North Rhine-Westphalia issued a decree (Runderlass) for the protection of nonsmokers in public offices wherein it was stated that the toxic substances contained in tobacco smoke could result in health damage not only in smokers, but in nonsmokers by passive smoking.<sup>64</sup> As a result of this decree, all directors of the Federal State of Northrhine-Westfalia public authorities’ administrative offices and courts of justice were asked to inspect their areas to assess whether or not non-smoking employees and visitors were sufficiently protected from the harms of passive smoking. Accommodating smokers and nonsmokers in different rooms and implementing a smoking ban in rooms with public access were cited in the decree as possible protective measures. The decree, however, was a non-binding recommendation and was based on the so-called veto-principle which meant that the onus of requesting tobacco-free air rested on the nonsmoker. The decree was therefore a document that did not carry great potential for change.

On the federal level, the Health Minister’s 1978 program for the protection of nonsmokers was the first formalized action on the issue, but similarly nonbinding. As apparent from a Verband representatives presentation (cited from above) on activities pertaining to secondhand smoking at a September 1983 meeting in Washington D.C. of several National Tobacco Manufacturing Associations, a draft law for the protection of nonsmokers had been in preparation at the federal level in the mid-seventies:

In 1974 the German Federal Government had to answer a Parliamentary Question on the health effects of cigarette smoking. It was no surprise to the insider that as a by-product passive smoking had also been dealt with at some length.... The German cigarette industry, of course, could not let this dangerous development simply go on. .... *Since there were most alarming signals from inside the Health Ministry that a draft law on nonsmokers’ protection was in preparation the industry decided to have the issue of passive smoking debated on a high level scientific conference in Munich in 1977. ... As a result it was confirmed that passive smoking was not harmful to the nonsmoker and hence no special legislative action was needed.* This result did impress the Health Ministry. *The intended law was changed into a programme of mere recommendations with no binding effects. Even in its political language the government abandoned its former position.* When asked in 1980 whether passive smoking would cause lung cancer in nonsmokers the Health Ministry’s spokesman in Parliament answered that the actual state of epidemiological research did not support such a relationship.<sup>61</sup> [emphasis added]

Indeed, plans originally existed for a statutory law on the protection of nonsmokers, but all that manifested was the program for the protection of nonsmokers. In the introduction of the 1978 program, it was stated that the program merely represented a framework within which further concrete measures would be developed.<sup>44</sup> While measures for the protection of the nonsmoker at the workplace, on public transportation, and in public facilities were deemed necessary, and while it was assessed that health education regarding the protection of nonsmokers needed to be intensified, this was all to be achieved within the existing legal framework with no additional financial resources.

In the introductory passage of the program, the government reiterated the tobacco industry's framing of the issue:

Any governmental interventions limiting the citizen's rights to develop his own personality in the form of general bans are only justified in restricted cases. A general ban on smoking, however, is not in line with the appropriateness of means. While thus differential specific measures are required to protect the nonsmoker against passive smoking, these measures should not be more restrictive than would actually be necessary. The smoker's and nonsmoker's personal rights should be weighed against one another.<sup>44</sup>

Eingriffe in das Recht des Bürgers auf freie Entfaltung seiner Persönlichkeit in Form genereller Verbote sind nur in eng begrenzten Fällen vertretbar. Ein generelles Rauchverbot ist mit dem Grundsatz der Verhältnismäßigkeit der Mittel nicht zu vereinbaren. Es bedarf daher differenzierender Einzelmaßnahmen, um den Nichtraucher vor dem „Passiv-Rauchen“ zu schützen und nicht gleichzeitig stärker, als es eigentlich erforderlich ist, reglementierend einzugreifen. Eine Abwägung des Persönlichkeitsrechtes .. sowohl des Rauchers wie des Nichtrauchers – ist erforderlich.<sup>44</sup>

The program for the protection of nonsmokers neglected to actually propose any new laws or regulations, such as the law for the protection of nonsmokers that had been in preparation in the mid 1970s but never materialized. Since the program did not carry any regulatory authority it was not likely to lead to any major changes in peoples' everyday lives. The measures that were announced were discretionary provisions, appeals or the recommendation that federal and state level authorities were to support the implementation of existing regulations. Voluntary measures were given priority over clear regulations, meaning that pushes for voluntarily considering the preferences and issues of nonsmokers were considered rather than requiring action through laws. This position represented a substantial retreat from statements made four years earlier at which time the government stated that the request for *comprehensive* measures for the protection of the nonsmoker was legitimate.

The program had been drafted jointly by federal and state level ministries responsible for health and was forwarded to the Bundestag by the Federal Minister for Youth, Family and Health on June 7, 1978, almost a year after it had been adopted by the Permanent Working Group on Drugs in the Federal Republic on May 4, 1977. Significantly, several important program elements adopted by the Permanent Working Group on Drugs had been removed, including in particular the following text passage:

This program will be supplemented and strengthened in the future in accordance with the state and development of the effect of "passive smoking" on the health and wellbeing of the nonsmokers. ... *the regulation of smoking in public places for the protection of the nonsmoker is not only possible but it is the duty of health protection agencies of the government.* These agencies include the Department of Labor and Social Welfare, Youth, Family and Health, Interior, Transportation, Defense and Commerce.<sup>65</sup> [emphasis added]

The lack of any call for statutory measures to protect nonsmokers was not accidental. The federal government's lack of specific support for legislation to protect nonsmokers' protection was revealed in its response to a parliamentary enquiry submitted in early 1978 by a deputy of the Christian Democratic Party (Dr. Kunz from Weiden) who had inquired about scientific evidence on health hazards of secondhand smoke available to the government and subsequent legislative measures deemed necessary on the basis of this evidence.<sup>66</sup> The answer, given in March, 1978 by the undersecretary of the Ministry for Youth, Family and Health, Fred Zander, reflected standard tobacco industry rhetoric common in the US and elsewhere:

The Federal Government does not deem legislative measures for the protection of nonsmokers as necessary at present. The program for the protection of nonsmokers, which has been drawn up by the Federal Government together with the federal states and which will be forwarded to the Lower House of the Federal Parliament shortly, contains numerous measures for the improvement of the protection of nonsmokers, *in*



*which the education of smokers and the appeal to reason and voluntary consideration with regard to nonsmokers are in the foreground.* [emphasis added]

Die Bundesregierung hält gesetzliche Maßnahmen zum Schutz der Nichtraucher gegenwärtig nicht für erforderlich. Das Nichtraucherschutzprogramm, das von der Bundesregierung zusammen mit den Bundesländern erarbeitet worden ist und das dem Bundestag in Kürze zugeleitet werden wird, enthält zahlreiche Maßnahmen zur Verbesserung des Nichtraucherschutzes, bei denen die Aufklärung der Raucher und der Appell an Einsicht und freiwillige Rücksichtnahme auf Nichtraucher im Vordergrund stehen.<sup>67</sup>

Even as the evidence that secondhand smoke damages nonsmokers accumulated, the federal government continued to minimize its effects. In 1980, the Associate Director of Scientific Issues at RJR, Frank Colby, reported in an interoffice memorandum that he had:

reasonably reliable, VERY CONFIDENTIAL information that the present German Government is ready to publicly condemn the implications of the White and Froeb study [the first study showing that secondhand smoke adversely affected pulmonary function in healthy nonsmokers<sup>68</sup>] in response to inquiries from the German Parliament.<sup>69</sup> [emphasis in original]

The federal government's reluctance to move forward with proactive, non-smoking protective legislation into the mid-80s was noted in a reported discussion between Verband representatives and then Federal Health Minister, Rita Süßmuth, in 1986. The Minister repeatedly pointed out that:

wherever she appeared in public, people raised the problems concerning passive smoking, *and she was reproached for the fact that nothing effective was done against passive smoking.* [emphasis added]<sup>70</sup>

Possibly linked to the release of the 1986 US Surgeon General Report on the "Health consequences of involuntary smoking,"<sup>71</sup> a paper summarizing an "action program for the promotion of non-smoking" was underway in Germany in early 1987 to discuss planned government activity.<sup>72</sup> The action program originally was to be issued by the federal government under Chancellor Helmut Kohl.<sup>72</sup> However in 1990, when it was quietly released on World No Tobacco Day, it carried the name of the Federal Health Ministry and made no mention of the federal government.<sup>73</sup> The Health Ministry did not even hold a press conference to promote the report to the public.<sup>72</sup>

The action program did not represent a substantial step forward compared to existing voluntary measures. In fact, the program again embraced voluntary measures over legislation. The program consisted of the brief presentation of an educational campaign targeted at adolescents (which had been started in 1987) and a series of recommendations on tobacco cessation, self-regulation of access to tobacco products, protection of nonsmokers, tobacco advertising, and warning labels. Consistent with the Ministry's practice of minimizing the dangers of secondhand smoke, it said:

[I]nvoluntary inhalation of tobacco smoke – passive smoking – is for *heavily* exposed nonsmokers not only an annoyance, but a health risk that needs to be taken seriously; on this there has been, in recent years, a great increase in the evidence. [emphasis added]

Unfreiwilliges Einatmen von Tabakrauch – Passivrauchen – ist für *stark* exponierte Nichtraucher nicht lediglich eine Belästigung, sondern ein ernst zu nehmendes Gesundheitsrisiko; dazu hat sich in den letzten Jahren ein rascher Zuwachs an Erkenntnissen ergeben.<sup>73</sup>

The program then simply repeated the existing weak policies regarding nonsmokers and, following standard tobacco industry rhetoric<sup>74</sup> suggested establishing delimited smoking zones with "adequate" ventilation. Additionally, recommendations were consistently made without clearly stating who would be responsible for implementation.

The minutes of a Verband board meeting in August 1990 indicate that the program had been weakened considerably over time (Table 2).<sup>75</sup> For example, recommendations for tax increases were deleted, as were provisions to limit easy access to tobacco products, such as reducing the number of vending machines.<sup>76</sup> Rather than implementing strong guidelines to protect individuals from the dangers of smoking, the final program recognized the tobacco industry's contribution to smoking reduction by way of product modification. Additionally, where it had been stated in the preface to the 1988 draft that evidence of health damage due to secondhand smoke necessitated an effective protection of nonsmokers in public institutions and workplaces, secondhand smoke was not even mentioned in the preface of the program in 1990. The 1988 version in fact mentioned the specific risk of cancer in nonsmokers exposed to tobacco smoke, yet the final 1990 version referred to secondhand smoke as simply a "risk that needs to be taken seriously."<sup>73</sup> While protecting nonsmokers was referred to as a principle of the program, the final program only recommended "mutual consideration and tolerance between smokers and nonsmokers," the tobacco industry's approach. The program was also targeted primarily at youth, one of the tobacco industry's favourite strategies used to promote the use of tobacco products as mature behaviour.<sup>77, 78</sup>

Before the program was issued, then-Chairman of the Medical Action Group Smoking and Health, Ferdinand Schmidt, reproached the federal government for failing to protect nonsmokers. At the annual meeting of his organization in October 1989, he stated that the program for the promotion of non-smoking had failed because of tobacco industry opposition.<sup>79</sup> We have no concrete indication of specific program interference on the part of the tobacco industry, but two incidents suggest that there was an effort to influence and manipulate the action program's content. In 1988, excerpts of the program draft appeared in the periodical "Manager Magazine" without the knowledge or authorization of the author, Rudolf Neidert, an employee of the Health Ministry,<sup>72</sup> suggesting that interested parties tried to interfere in the drafting process by exposing it to the public in the drafting stage. This interpretation is corroborated by the fact that on December 2 and 3, 1988, a campaign against this action program appeared in the German tabloid BILD-Zeitung, Germany's most widely read yellow-press daily newspaper.

In 1990, several attempts to pass nonsmoker protection legislation failed. It was not until 2002 that a weak ordinance nominally protecting nonsmokers at the workplace entered into force, after a comprehensive nonsmoker protection law was defeated in the two previous parliamentary terms.

## **The Verband's Public Relations Response**

A confidential Verband document dated July 1975 entitled "Germany - Verband reflections toward PR [public relations]-work of the Cigarette Industry," attached to interoffice correspondence between the Verband's Managing Director, H. Schenzer, and Paul Isenring of Philip Morris Europe stated that the tobacco industry in Germany was not well-prepared to respond to the 1974 governmental reply to the Brief parliamentary enquiry (discussed earlier), but quickly recognized that blocking government action was crucial to the industry's survival:

The attacks against the cigarettes do not only continually increase in number, but also subjectively. Thereby, the fact that also governmental authorities ... as well as health-politicians from all parties increasingly make use of subjective means for their campaigns against smoking, gives rise to a special anxiety. ... If our industry keeps defending itself unsufficiently [sic] as until now, effects on consumption will for long not fail to appear.<sup>50</sup>

**Table 2: Action Program For the Promotion of Non-Smoking, 1990:  
Provisions as Originally Proposed vs. Provisions as Enacted**

Topic/Setting	Provision as originally proposed (draft 1988) <sup>76</sup>	Provision as issued (1990) <sup>73</sup>
Educational campaign	Campaign promoting non-smoking was to run from 1987-1995, administered by the Federal Health education authority	Event festivals targeted at youth. Further target groups include health professionals, doctors, journalists, opinion leaders, teacher associations, labor unions employer associations etc.
Youth access	No access for underage youth as a mid-term goal by way of “youth-proof” vending outdoor machines and giving up of sales to children and youth. Legislative regulations by way of law for the protection of youth, if voluntary measures do not prove sufficient	Voluntary measures, dialogue with the responsible associations (retailer, manufacturers of vending machines)
Protection of nonsmokers	<p><i>Generally:</i></p> <p>All rooms that are shared by smokers and non-smokers to become smoke-free.</p> <p>Amendment of the workplace ordinance of 1975 yielding an explicit protection of employees against exposure to tobacco smoke</p> <p>Propagate smoke-free policies in homes, schools, health sector, businesses and administration</p> <p><i>Specific settings:</i></p> <p>In <u>governmental institutions</u> with public access, smoking to be prohibited in waiting rooms. Smoking only allowed in separate areas.</p> <p>On <u>public transportation</u>, the proportion of non-smoking seats shall be greater than the proportion of non-smokers in the population</p> <p><u>Health sector:</u> In hospitals, smoking shall be prohibited for staff, patients and visitors in all rooms that are used by patients. In single rooms, smoking by staff is subject to personal decision (identical in both drafts)</p> <p>Talks with the <u>hotel and restaurant</u> association about recommendations to set up smokefree restaurants. In restaurants and cafes non-smoking-areas shall be provided at a ratio of 7:3 (in favour of nonsmokers). Restaurant-law to be examined with a view to whether a</p>	<p><i>Generally:</i></p> <p>In implementing the EU-resolution of May 1989 calling for smoke-free policies in public buildings, precedence shall be given to voluntary measures and specific individual regulations such as house rules or administrative guidelines</p> <p><i>Specific settings:</i></p> <p>In <u>governmental institutions</u> with public access, smoking prohibited in waiting rooms. As far as possible, smoking shall be allowed in separated rooms or areas</p> <p>On <u>public transportation</u>, seats shall be provided for non-smokers according to the proportion of non-smokers in the population</p> <p><u>Health sector:</u> In hospitals, smoking shall be prohibited for staff, patients and visitors in all rooms that are used by patients. In single rooms, smoking by staff is subject to personal decision</p> <p>Talks with the <u>hotel and restaurant</u> association about recommendations to set up smokefree restaurants, in connection with measures that encourage mutual tolerance. In restaurants, adequate ventilation, non-smoking areas or the like shall be pushed in order to minimize involuntary smoking of guests</p> <p>No mention about the precision of the workplace ordinance besides the suggestion that a reference could be included in the workplace ordinance to organisational possibilities of the employer, e.g. the spatial</p>

**Table 2: Action Program For the Promotion of Non-Smoking, 1990:  
Provisions as Originally Proposed vs. Provisions as Enacted**

Topic/Setting	Provision as originally proposed (draft 1988) <sup>76</sup>	Provision as issued (1990) <sup>73</sup>
	examined with view to whether a legislative frame is necessary.	separation of smokers and non-smokers or the enactment of (graded) smoking bans
Schools/youth centres	Smoke-free policies for schools and youth centres, abolition of existing smoking-rooms for pupils in schools	Classroom health promotion and the exemplary development of non-smoking zones in schools and youth centres. Voluntary measures to achieve smoke-free schools, further regulations only if these do not work out
Cessation plans	Further and more targeted cessation plans, especially for pregnant women, including provisions for the modification of tobacco products to make them less harmful	Integration of cessation counselling into psychosocial counselling centers, development of special smoker counselling centers. Pregnant women as special target group
Tobacco advertisement	Stronger warning labels on tobacco products and on tobacco advertisement.  Further restrictions of tobacco advertisement, primarily by means of gradual elimination of tobacco advertising in the public space. If necessary, legislative measures in course of the EU-harmonization	Voluntary measures have precedence over legislative restrictions.  Suggestions:  The Ministry of Health will discuss with the associations in the tobacco business about the  (1) extension of the existing self-regulations of tobacco advertising (restriction of advertising referring to youth, restriction of billboard advertising, especially around schools and youth centres  (2) renunciation of the joint advertisement for smoking/cigarettes in general  (3) renunciation of give-away cigarettes  (4) renunciation of cigarette advertising in cinemas before films that are adult (over 18 years old) rated
Warning labels	If necessary, legislative measures in the course of the EU-harmonization	The Health Ministry intends to select warning labels that express the risk and danger of smoking. It however declines exaggerated phrases such as "smoking kills"
Tobacco Tax, Subventions	Tobacco tax raises and efforts to further reduce the subventions on European level for the growing of tobacco	None

The author of the public relations document suggested several public relations measures to influence health authorities, the medical community, the media and smokers through the “diffusion of scientific statements.”

In 1975, an 18-page brochure on second-hand smoke entitled “Passive Smoking – a documentation concerning the state of affairs on political discussion, jurisdiction and scientific knowledge of the topic of passive smoking” was published by the Verband <sup>52</sup> [English version of the brochure<sup>80</sup>]. An internal overview of the Verband’s 1975/1976 public relations efforts showed that the real aim of the pamphlet was to prove “the scientific irrelevance of the thesis that passive smoking damages the health of the nonsmoker.”<sup>81</sup> This brochure, with a circulation of 1.3 million copies, was targeted at medical journalists, politicians, and various other leaders. Copies were mailed directly to members of parliament and the government.<sup>81</sup>

Mirroring the same tactics as the US tobacco industry,<sup>82</sup> the Verband claimed that the brochure summarized the state of the art scientific findings to facilitate a factual assessment of effects from secondhand smoke. The brochure, however, simply presented statements from high profile scientists who frequently contested the evidence that secondhand smoke was dangerous to nonsmokers. These scientists, all of whom had ties to the tobacco industry, included Helmut Schievelbein, a well-known cardiologist and the then-present Director of the German Heart Center in the Institute for Clinical Chemistry and Biochemistry of Munich University (also formerly Director of the Tobacco Industry’s Research Institute in Hamburg); Werner Klosterkötter, Director of the Institute for Hygiene and Industrial Medicine at the University of Essen and President of the German Society for Industrial Medicine; and Ernest Wynder, founder of the American Health Foundation.<sup>83,84,85-87</sup> Both Schievelbein and Klosterkötter had carried out experimental research for the tobacco industry in the early 1970s.<sup>85, 88, 89</sup> These industry affiliations, however, were not disclosed in the brochure. The publication of the 1975 Verband brochure on secondhand smoke led to a number of press articles favourable to the tobacco industry and secondhand smoke with headlines such as “harm of passive smoking not substantiated“ (Schäden beim Passivrauchen nicht bewiesen).<sup>90</sup>

The brochure additionally reported two legal opinions pertaining to two court decisions that had favoured nonsmokers’ rights. Both legal opinions contested the decisions. The first case concerned workplace rights for nonsmokers. On June 26, 1974, the Superior District Court of Stuttgart had acquitted a taxi driver who had been sued by a passenger for failing to comply with his duty to carry passengers as the driver had asked the passenger to stop smoking or leave the cab. In the second court case, the Superior Administrative Court of Berlin had required the University of Berlin to prohibit smoking in all courses and lectures.<sup>91</sup> Before long, two legal experts published opinions criticizing these court decisions in the same prestigious journal that had reported the original cases. Joseph H. Kaiser, Professor for Constitutional Law in Freiburg and one of Germany’s leading experts in Constitutional and Public Law at the time argued that the rulings were impudent.<sup>92</sup> Rupert Scholz, Professor of Constitutional and Public Law at the Free University of Berlin, concluded that the Berlin court had surpassed its judicial power and the right of the plaintiff was not justified on any grounds.<sup>93</sup> Scholz was Federal Minister of the Defense between 1988 and 1989, member of the Bundestag between 1990 and 2002, and is a well-known expert in constitutional and public law. We did not locate any documents linking the tobacco industry and either of the two legal experts at the time. Rupert Scholz became a member of the board of trustees of the tobacco industry sponsored foundation VERUM in the early 1990s.<sup>94</sup> Overall, the two decisions, both favourable to nonsmokers rights, were contested by two very prominent individuals with links to the tobacco industry.

In 1976, the first issue of the print magazine “Smoker Dispatch” (“Raucher-Depesche”) came out, designed as a popular style periodical intended to promote smoking and related products. It had a circulation of 1.5 million and was distributed free via tobacco retailers and wholesalers and in German railways.<sup>95</sup> It sought to promote “tolerance between smokers and nonsmokers, counteracting government’s aim to establish the image of the ‘ugly smoker.’”<sup>81</sup> The print magazine “Smoker Review” (“Raucher-Revue”) which also first appeared in 1976 was directed primarily at smokers and distributed via tobacco retailers. It outlined the benefits of smoking, trying to reassure smokers that they could continue smoking without undue risk. It had a circulation of 750,000. The Verband financed both magazines.<sup>96</sup> Such Verband activities increased over time. A report labelled “Smoking and Health” summarizing both governmental activities and Verband actions from August to November 1978 read:

In other reports we informed you about PR activities undertaken by the Association of Cigarette Manufacturers (VDC), activities which involve the publication of positive material on medical, legal and socio-political problems. In addition, photographs of illustrated stories about prominent smokers were disseminated and furthermore successful caricatures poking fun at the opponents of smoking. In the period under review over 1600 different organs of the press, ordinary and specialist magazines [sic] with a total circulation of 270 million copies were successfully approached. It should be added that such guided information reached over 1 000 million copies in 1977 and in 1978 this figure will be considerably higher.<sup>97</sup>

These publications appear to have been successful for the tobacco industry in reaching the press, politicians, and scientists.<sup>98,27</sup> As in other countries,<sup>32</sup> this effort resulted in the fact that while the legitimate, peer-reviewed scientific literature unequivocally documented detrimental health effects of secondhand smoke, industry-favourable coverage in the lay press gave the impression that there was still doubt as to the health risks of secondhand smoke. A later 1989 document, “ETS – Challenge for the Industry,” credited this industry-favourable coverage to the Verband’s public relations program:

a number of discussions with large German publishing houses which publish the most important daily papers, magazines and journals. *The industry urged the publishing houses to guarantee a more objective [i.e., supporting the industry position] reporting. These talks have had an obvious effect and reporting has changed in a positive respect.* [emphasis added]<sup>99</sup>

A 1977 conference in Munich illustrates both the industry’s effect on legislation and its successful public relations efforts. To mobilize public and political opinion against governmental action for the nonsmoker protection nonsmoker at the federal level, a two-day symposium entitled “Passive smoking at the Workplace” was held in the spring of 1977 in Munich. The symposium, officially organized by the Bavarian Academy for Industrial and Social Medicine, was scheduled as the 1977 continuing education event of the academy and was orchestrated to summarize medical and legal information pertaining to the issue of second-hand smoking. The Secretary of State of the Bavarian State Office for Labor and Social Order gave the opening address,<sup>100</sup> indicating this was not just another continuing medical education event. An official from the Bavarian Ministry of the Interior told a representative of the Munich Nonsmokers Initiative that this event represented an effort by the tobacco industry to undermine the pending governmental action for the protection of nonsmokers.<sup>101</sup> The direct link to the tobacco industry was never disclosed to the public, nor appeared in conference materials. The tobacco industry’s secret planning of this symposium was confirmed in a report of a Verband representative at a meeting of several National Tobacco Manufacturing Associations in Washington DC in September 1983:

The *official* organizer was the Bavarian Academy for Occupational and Social Medicine. The active participants were eminent medical scientists and lawyers. The conference was attended by high ranking personalities of the health scenery including health officials from the Ministry. [emphasis added]<sup>61</sup>

As Frank Colby reported in two confidential RJR interoffice memoranda dated February 1982, the Verband was involved in the preparation of another, similar event:

because of the potential legislation and the potential threshold limit listing [the Verband was] committed to hold a public smoking meeting in Germany before the end of the year.<sup>102</sup>

Further, a confidential memorandum written by Colby dated February 16 and labelled “please note and destroy” reported that in December, 1981 the German Ministry of Labor and Social Order had published a status report on the drafting of legislation pertaining to the protection of employees in the workplace. Colby recounted that this draft had been proposed by the German Health Ministry and included a paragraph on smoking that did not refer to health, but rather referred to smoking as a “manner which may be annoying.” On February 18, he noted that:

There seems to be a report available at least in drafting form from one of the Divisions of the German Health Ministry which reportedly endorses, as proven, the allegations of the White and Froeb, and similar studies on respiratory and cardiac impairments in adults ...<sup>103</sup>

He goes on to explain that therefore, the German industry was:

“sub-rosa” trying to organize in Germany for the second half of the year, a scientific conference on public smoking. ... The following will probably be invited, among others: Wynder, Garfinkel, Hirayama, Valentin, Lehnert.<sup>103</sup>

We have no account of such a conference on public smoking taking place in 1982. The efforts may have been redirected into the scientific workshop on secondhand smoking that took place in Vienna in 1984, officially organized by the Bavarian Ministry of Labor and Welfare, the West German Society for Occupational Medicine, the Bavarian Academy for Occupational and Social Medicine, the Austrian Society of Occupational Medicine, the Austrian Ministry of Health and Environmental Protection, the Austrian Society of Occupational Medicine, and the American Health Foundation. That scientific workshop was instigated and orchestrated by the tobacco industry (Table 3).<sup>61</sup>

The Verband had recognized the critical role that secondhand smoke played in determining the social acceptability of smoking as well as the tobacco industry’s need for covert, proactive activity to counteract those opposing smoking. The fact that this approach was applied systematically and successfully was frankly described in a report of a visit to the Verband in 1979 by a member of the TAC, the British National Manufacturing Association:

... by far the greatest proportion of the work and expenditure goes into the “arms length” promotional activities intended to maintain the social acceptability of smoking ... When publications appear which clearly misrepresent or distort facts and are likely to mislead the public *VdC call [sic] on the services of a law firm who act [sic] with no apparent connection with the industry.* ... Risks. The type of clandestine operations [reference to the above and other promotional activities] in which the VdC is involved clearly carry certain risks of detection, by such people as investigative journalists, of the link between the industry and the end product. HK [Harald König, a Verband employee] believes that the precautions they take are sufficient to enable the industry to be able to deny any link and says that such risks as remain are acceptable to the VdC member companies ... *By this form of combined approach the German industry seems to have defended itself better than many countries from the worst excesses of the various anti-smoking lobbies and has maintained a higher standing for itself and its product in the public mind ...*<sup>27</sup> [emphasis added]

The industry's use of law firms to insulate the tobacco companies and provide secrecy is a strategy that the industry has used worldwide, particularly in efforts to undermine the evidence linking secondhand smoke to disease.<sup>260 261 262 263 264</sup>

The industry's efforts were working, and the 1978 "Smoking and Health Report" on government and Verband activity gave an indication of its success regarding attempts to defuse public debate on the danger of smoking and secondhand smoke:

In an admittedly unofficial letter from the Ministry of Health a spokesman expressed the opinion that in view of the cigarettes at present supplied by the German manufacturers in the Federal Republic, a number of assertions made by the Federal government in 1974 in connection with smoking could no longer be upheld in their original form. This is true for example for the figure published at that time of roughly 140 000 deaths per year from smoking ... As has been stated, *these opinions have not yet been given officially; they do, however, indicate a considerable modification in the Ministry of Health's way of thinking on the problem of Smoking and Health.*<sup>97</sup> [emphasis added]

A major shift in the general discourse on passive smoking followed the publication of three notable studies and a Surgeon General's report on secondhand smoke between 1980 and 1986<sup>71, 265-267</sup> and yet the tobacco industry successfully employed defensive strategies through influential public relations and an astute awareness regarding its need to increase political intervention. The effort to publicly deny any link between secondhand smoke and disease became more than ever pertinent after the publication in late 1980 and early 1981 of several papers linking secondhand smoking with lung cancer.<sup>265,266,267</sup> The most notable paper was from Japan by Hirayama<sup>265</sup> and showed that non-smoking women married to smokers had higher lung cancer rates than non-smoking women married to nonsmokers.<sup>265,268</sup> On May 8, 1981, a full-page advertisement was published by the Verband in four leading German dailies,<sup>269</sup> aiming to refute an article on Hirayama's findings which had appeared in the widely read print magazine, "Stern."<sup>270</sup> This ad (Figure 2), which the Verband faxed to news agencies, television and radio stations, questioned Hirayama's results. The ad also suggested that a statement made in the Stern that referred to people in the Federal Republic of Germany dying prematurely due to smoking was scientifically untenable.<sup>269</sup>

Like the US Tobacco Institute, the Verband ran the advertisement criticising the Hirayama study despite private assurances from Adlkofer that Hirayama was correct.<sup>268</sup> The advertisement that appeared in Germany was similar to the ones that appeared in the US<sup>271</sup> and in Australia<sup>272</sup> (Figure 3).

Around the time of the publication of the US Surgeon General's report *The Health Effects of Involuntary Smoking* in 1986 and the efforts toward an action program for the protection of nonsmokers by the German Federal Health Ministry, the Verband was planning a major public relations offensive on secondhand smoke. A 1987 Verband memo analysed the status quo, trends, PR goals, and messages, showing that secondhand smoke was widely understood as a risk by the general public and that PR efforts were used to counter smoking restrictions and acceptance of scientific evidence corroborating the danger of passive smoke:

(A) Analysis of the status quo ... Target level politics: passive smoking a prominent issue at least in environmental and health bureaucracy. In spite of weak evidence base passive smoking is widely accepted as a risk ... High suitability for diversionary manoeuvres ...

(B) Trend analysis: ... Target level politics: growing pressure to intervene, growing willingness to intervene, spanning departments and political parties. ...



<b>Table 3. Scientific Events Pertaining to Secondhand Smoke and Tobacco Industry Involvement</b>						
<b>Date and Location</b>	<b>Meeting / Event</b>	<b>(Official) Organizers</b>	<b>Industry Involvement</b>	<b>Involvement Disclosed?</b>	<b>Conclusions</b>	<b>Report to Public (&amp; Source)</b>
1973 June Berlin	22 <sup>nd</sup> German Conference for the Advancement of Practitioners' Medical Knowledge  (22. Deutscher Kongress für Ärztliche Fortbildung)	Not established	Not established	Not established	Existence of any evidence about the harmfulness of passive smoking is denied	Documentation "The cigarette" by Dr. K.M. Kirch and H. Rudolf (Düsseldorf, 1973): "In the final round-table discussion all the scientists ... were unanimously of the opinion concerning passive smoking that under everyday conditions the non-smoker's health is not endangered by the smoker" <sup>52, 104</sup>
1974 03/27-03/29 Bermuda	Workshop  Environmental Tobacco Smoke Effects on the Non-smoker	University of Geneva, R. Rylander (organizer)  Pittsburg University, Morton Corn and University of Missouri, Kaye Kilburn  Through a grant from "Fabriques Tabac Réunies", Neuchatel	Yes, tobacco industry helped fund the event <sup>105</sup>	The preface of the published report discloses that the workshop was supported by the University of Geneva through a grant from Fabrique de Tabac Réunies <sup>106</sup>	Scientific data on the dangers of passive smoking do not exist  The main known acute effects of exposure to environmental tobacco smoke are acute irritation of the eyes and the respiratory passage; other acute irritation may occur in certain population groups. The data presented, though suggestive of other effects, were not considered conclusive and more information is required. When excessive concentrations of environmental tobacco smoke occur, these may be avoided by adequate ventilation, air cleaning devices, or by restricting smoking. <sup>106</sup>	Results published in a supplement (Nr. 91) to the "Scandinavian Journal of Respiratory Diseases" <sup>105</sup> (secondary source)  A report of the meeting was published by the University of Geneva, edited by R. Rylander <sup>106</sup>
1975	Press seminar	Federal Minister for Research and	Not established	Not established	Professor G. Wagner of the German Cancer Research	Refero-med Medical Journal Nr. 29, 1975: "It has recently been

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Date not established Heidelberg, Germany		Technology German Cancer Research Center			Center warned against the overvaluing of secondhand smoke (Colby of RJR had contacted Wagner in the mid-seventies and found him to be open-minded <sup>107</sup>	recognized that air-pollution in smoke-filled rooms is much lower than assumed in the convinced non-smoker, who absorbs any smell of smoking”
1977 03/31-04/01 Munich, Germany	Scientific Symposium “Public Smoking at the Workplace”	Bavarian Academy of Occupational and Social Medicine	Yes *	Not intended but leaked afterwards; this was referred to in a reader’s letter in the Medical Tribune. <sup>108</sup>	Secondhand smoking constitutes annoyance, but not a health risk for nonsmokers  Medical and legal controversy on secondhand smoke not settled conclusively	Proceedings published in the Gentner Verlag Munich  The Medical Journal MMW Praxismagazin, 1977, 119, Nr. 19 reported: “Passive smoking not proven to be health-hazardous in healthy adults, conditions for legal smoking bans not unfulfilled” find reference
1980 12/03-12/04 Munich, Germany	Second circular conference on ‘legislative aspects of mutagenicity testing’	German Society for Environmental Mutagen Research	Not established	Not established	Not established	Not established
1983 03/15-03/17 Geneva, Switzerland	Scientific Symposium “ETS - Environmental Tobacco Smoke”	University of Geneva, Chairman R. Rylander	Yes  The Tobacco Institute sponsored the event with US \$70,000 <sup>109</sup>	The grant support by TI is listed in the preface of the report	“The available evidence does not confirm that ETS causes chronic health problems in non-smokers” <sup>105</sup>	Proceedings published in the “European Journal of Respiratory Diseases”, supplement 133, Vol 65, 1984  Simultaneously, a report “ETS – environmental tobacco smoke. Report from a workshop on effects and exposure levels”, edited by R. Rylander, Y. Peterson and M.C. Snella was published, which concluded: “The main known acute effect of exposure to ETS is

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						irritation of the eyes and the respiratory passages ... The data presented, though suggestive, were not considered conclusive ... Available evidence demonstrates that the possible health effects of ETS are not significant in comparison to the multitude of health problems facing society on a global scale.” <sup>110</sup>
1984 04/09/-04/12 Vienna, Austria	Scientific Symposium “Medical Perspectives on Passive Smoking”	West German Society for Occupational Medicine  Bavarian Academy for Occupational and Social Medicine  Austrian Society of Occupational Medicine  Austrian Ministry of Health and Environmental Protection  Austrian Society of Occupational Medicine  American Health Foundation	Yes	Not intended, but leaked afterwards; tobacco industry instigation revealed <sup>61</sup>  F. Schmidt of the Medical Action Group Smoking and Health reported on the participation of the tobacco industry in the medical Journal MMW in reply to an article that had appeared in the same journal reporting on the event <sup>111</sup>	With regard to medical and legal facts of passive smoking at the work place, the following must be considered. Under our present day work place conditions, no clear and significant untoward health effects from passive smoking have been shown. Therefore, we should, as in other everyday situations, observe the following rules: ‘... as much state intervention as necessary, as much freedom as possible’. <sup>112</sup>  Risk groups that are possibly exposed to danger are small children, asthmatics, those with allergies, etc.  No definitive proof for a causal relationship between SHS and the risk of lung cancer, further research is necessary to explore the possibly higher risk of cancer	Press statement by E. Wynder and H. Valentin: “... If the results of numerous international investigations are taken into account, the connection between passive smoking and lung cancer has not been scientifically established to date (...) Should lawmakers wish to take legislative measures with regard to passive smoking, they will, for the present, not be able to base their efforts on a demonstrated health hazard from passive smoking.” <sup>113</sup>  The entire proceedings were published in the Journal of the American Health Foundation “Preventive Medicine” <sup>114</sup>  J. Gostomzyk wrote a report for the German Public Health Journal “Das öffentliche Gesundheitswesen” <sup>115</sup> , as well as in the Medical Journal Münchner Medizinische Wochenschrift (MMW), with the headline “Passive smoking: Innocuous

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					in nonsmokers. However, the preventive focus must be on the reduction of active smoking	after all?" <sup>116</sup> Newspaper report in one of the leading German dailies, the Frankfurter Allgemeine Zeitung (FAZ), which reports about the "expert meeting" on April 21, 1984 "Passive smoking hardly harms health" <sup>117</sup>
1985 06/18 Stuttgart Germany	Information meeting	Federal Health Ministry and Physicians' Association of the Federal State of Baden-Württemberg	Professor H-W. Schlipkötter, member of the Research Council Smoking and Health (1980 into the nineties) spoke among others	Not established	From a purely chemical point of view, it cannot be judged whether "passive" smoking constitutes a cancer risk or not. Existing epidemiological evidence even speak against such a connection <sup>118</sup>	The Journal Therapiewoche carries an article by the title: Gesundheit und Umwelt: Was ist mit unserer Atemluft? <sup>119</sup>
1985 10/21-10/23 Titisee, Germany	4 <sup>th</sup> Scientific Meeting of the Research Council Smoking and Health  (SHS one topic among others)	Verband Research Council Smoking and Health	Yes	Not established	Not established	Not established
1986 Date not established Wiesbaden, Germany	Press Colloquium "Passive Smoking: A risk at the workplace?"	Not established	Yes  Presentations by industry-linked persons such as H. Letzel, A Manz (who was "very helpful [to the Verband] with keeping them [trade unions] at bay with a smoking prohibition at the working	Not established	The participants of the colloquium were of the opinion that no proof had been found for the hypothesis that passive smoking increases the risk of lung cancer	Journal "Therapiewoche" Vol 36, 20, p 2191-2198 reports: So far no proof has been established that passive smoking constitutes risk of lung cancer, for that reason the majority of participants were opposed to the adoption of legislative steps; real risks at the workplace obstructed by excessive discussion of secondhand smoke <sup>120</sup> (english translation of this article <sup>121</sup> ))

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			place” <sup>18</sup> ), J. Schlatter and E. Wynder			The German scientific journal “Therapiewoche” reported <sup>122</sup>  The international tobacco science information service, a leaflet newsletter which was put out for the Verband by a Düsseldorf-based firm reported <sup>123</sup>
1986 May 15 Bonn, Germany	International Scientific Symposium “Biology of Tobacco Smoking” +	Peutinger Institute for Applied Sciences	Yes, sponsored by Reemtsma, in connection with its “light” brand R1  Presentation of the results of a 5 year dog inhalation study sponsored by Reemtsma which had apparently been conducted on behalf of the Peutinger Institute	Not established	No neoplasms in the sections of lungs of dogs which had been examined for 5 years with 10 cigs/day smoked (4 mg tar, 0.3 mg nicotine)	Press release on June 9, 1986 in the “Tobacco special”, stating that “Süßmuth [then Federal Health Minister] welcomes research of the cigarette industry to develop a lighter cigarette.” <sup>124</sup> The Press Officer of the Federal Health Ministry later apparently objected to the positive and incorrect interpretation of an interview with Federal Health Minister R. Süßmuth made in this and other newspapers <sup>125</sup>
1986 08/21-08/27 Budapest, Hungary	14 <sup>th</sup> International Cancer Congress  (Reference to secondhand smoke was mainly through Hirayama who gave a plenary lecture)	UICC	Presentations by persons with links to the tobacco industry, such as U. Mohr, <sup>126</sup> who had received funds from the Verband’s Research Council Smoking and Health in the late seventies <sup>127</sup>  Monitoring by the public relations firm Zahn & Associates, consultant to the	Not established	Not established	Several European newspapers reported <sup>126</sup> (secondary source)

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			tobacco industry <sup>126</sup>			
1986 09/22-09/26 Berlin, Germany	Second International Aerosol Conference	German Society for Aerosol Research, American Association for Aerosol Research  Technical University of Berlin (host)	U. Mohr (who had received funds from the Verband's Research Council Smoking and Health as early as the seventies <sup>128</sup> presented	Not established	Not established	Proceedings were published <sup>129</sup>
1986 10/23-10/25 Essen, Germany	International Conference "Experimental Toxicology of Passive smoking"	University of Essen  German Federal Ministry of Youth, Health, Family and Women  German Society for Occupational Medicine  Ministry of Science and Research of the German State of North Rhine-Westphalia	Tobacco industry representatives participated (presentations) <sup>130</sup>	Not intended, but leaked and was reported in the print news	Toxicology cannot establish a risk from passive smoking that is greater than that which has been established by epidemiology	J. Gostomzyk, individual with links to the Verband wrote a report for the German Public Health journal, the "Öffentliches Gesundheitswesen," <sup>131</sup> which concludes:  "It may be said that so far even toxicology has not been able to ascertain with any greater degree of probability that did epidemiology that there exists a link between the damage to health and passive smoking"
1987 03/23-03/27 Hannover Germany	International Symposium on Inhalation Toxicology  The Design and Interpretation of Inhalation Studies and their Use in Risk Assessment	Hannover Medical School, U. Mohr (organizer)  Sponsored by the International Life Sciences Institute (used by the tobacco industry to thwart tobacco control policies) <sup>132</sup>	Yes, participation of several scientists with links to the tobacco industry, such as G. Oberdörster, F. Roe (scientific consultant), <sup>133</sup> D. Henschler (RJR grantee) and U. Mohr <sup>134</sup>	Not in the program <sup>134</sup>	Not established	Not established

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		Hannover Medical School and the Fraunhofer Institute on Toxicology and Aerosol Research	Mohr <sup>134</sup> Several staff from tobacco companies attended <sup>135</sup>  Monitoring by the public relations firm Zahn & Associates, consultant to the tobacco industry <sup>133</sup>			
1987 08/17-08/21 Berlin, Germany	4 <sup>th</sup> International Conference on Indoor Air Quality and Climate	Institute for Water, Soil and Air Hygiene of the German Federal Health Office  Co-sponsored by WHO and Commission of the European Communities	Persons with links to the tobacco industry presented, such as H. Klus, F. Adlkofer, G. Scherer <sup>136</sup>  INBIFO <sup>137</sup> and several tobacco companies <sup>138</sup> had staff attend	No disclosure in the final program <sup>139</sup>	Possible health hazard of secondhand smoke for the population has not been proven	Proceedings were published in four volumes: Vol. 2 contains secondhand smoke <sup>136</sup>
1987 11/04-11/06 Tokyo	International Conference on Indoor Air Quality	Council for Environment and Health	Yes  F. Adlkofer who was involved in suggesting potential speakers, which would be useful in “reaching a well-balanced view on the passive smoking issue” <sup>140</sup>	Did not explicitly acknowledge tobacco industry support <sup>141</sup>	Evidence linking secondhand smoke with cancer is untenable, evidence still pending  It is questionable whether the measures that are taken in several countries for the protection of non-smokers ameliorate the health status of healthy adults  Since 1984, there has not been any sentinel evidence about second hand smoke	The proceedings are published in the supplement to the International Archives of Occupational and Environmental Health”, (secondary source) <sup>105</sup>  Report in the journal Öffentliches Gesundheitswesen <sup>142</sup>

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1988 05/02 Vienna, Austria	Symposium/Hearing “Disease due to Passive Smoking?”	Austrian Federal Ministry of Health and Public Service	Yes, financial support from Austria Tabak/Verband <sup>143</sup>  (Klus and Mauhart of Austria Tabak were the prime instigators of the hearing <sup>144, 145</sup>  Industry-linked persons presented, such as F. Adlkofer <sup>146</sup> and others <sup>143</sup>	No	Conclusion of the Health Minister: “A causal connection between passive smoking and illnesses cannot be proven”  Legislated restrictions on smoking are neither effective nor enforceable, US examples would not be followed in Austria  Babies and small children should not be exposed to SHS  Smoking rooms in schools would be eliminated	Causal relationship between passive smoking and disease is not provable, no general smoking bans warranted, instead “general protective measures” in firms, at public events, in means of transport and in offices, information for pregnant women, protection of toddlers (through appeals to parents)  Several newspaper articles reported on the meeting, with headlines such as “Cancer risk for passive smokers: An unresolved controversy among experts“, “Disease due to passive smoking?” and “Passive smoking: harm not detectable” <sup>147</sup>
1988 06/13-06/15 London, Great Britain	“Indoor and Ambient Air Quality” (Perry Conference)	Imperial College London	Yes, funding from tobacco industry <sup>105</sup>  Attendance of industry consultants <sup>148</sup>	On first day of the conference, 13 June, an article appeared in the London Times reporting that the WHO had withdrawn from the conference due to tobacco industry involvement	(Selected Sample <sup>149</sup>  Care should be taken in relating surveys of environmental tobacco smoke to human uptake and risk.  It seems likely that the ETS contribution of volatile compounds is much less than the contribution from other sources, and so the use of tobacco-specific analytes is highly important.  The provision of a designated smoking area appears to effectively reduce ETS	The proceedings were published in a book by the title “Indoor and Ambient Air Quality” <sup>150</sup>  14 selected papers were published in the June issue of Environmental Technology Letters <sup>151</sup> (secondary source)



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					<p>constituent levels in non-smoking offices, even if the designated smoking area is not separately ventilated.</p> <p>The prohibition of smoking in the workplace will not reduce the adverse health effects of industrial processes. It will remove the telltale signs of inadequate ventilation.</p>	
1989 February Brussels, Belgium	“Present and Future of Indoor Air Quality”	Not established  (The actual sponsors, the Belgium Ministry of Public Health, WHO and others, withdrew, funding by several companies which were not exclusively, but also tobacco companies <sup>152</sup>	Yes, funding <sup>105</sup>  Several speakers with links to the tobacco industry presented <sup>152</sup>	Not established	Not established	Report by Bieva et al. including full text and posters presented during the meeting <sup>153</sup>
1989 02/26-02/28 Titisee, Germany	6 <sup>th</sup> Scientific Symposium of the Research Council Smoking and Health  Secondhand smoke being one topic among others	Verband’s Research Council Smoking and Health	Yes  This conference (series) serves to inform the scientific community and the industry about the main results and achievements of the Research Council grantees in the past	Not established	Denial of active smoking (misclassification) is a main source of error in epidemiological studies on passive smoking <sup>154</sup>	Not established

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			year <sup>18</sup>			
1989 02/19-02/24 Hannover, Germany	International Symposium  Assessment of Inhalation Hazards: Integration and extrapolation using diverse data	Hannover Medical School, organizer: U. Mohr  Sponsored by  International Life Sciences Institute (ISLI)- industry affiliated <sup>132</sup> , Hannover Medical School, Fraunhofer Institute for Toxicology and Aerosol Research, Federal Ministry for the Environment, Nature Conservation and Nuclear Safety	Yes, the tobacco industry was involved in the organization of the meeting <sup>155</sup>  Several persons linked with the tobacco industry were involved with the planning of the conference, such as P. Lee who was on the scientific planning committee, and D. Henschler and B. Schneider who both were on the faculty for the conference  Several persons with links to the tobacco industry presented such as N. Mantel, F. Adlkfer, C. Proctor, G. Scherer, D. Henschler, U. Mohr presented <sup>156</sup>  Representatives from several tobacco companies participated <sup>157</sup>	The program did not disclose the involvement of persons with links to the tobacco industry in the planning of the conference <sup>158</sup>	A public relations consultant to the tobacco industry who wrote a report concludes that the “Organizers achieved a balance for the ETS reports that was evidenced by the presence of scientists on both sides of the controversy” <sup>159</sup>  Epidemiologists have not (yet?) discovered methods sensitive enough to provide a clear picture of low- or no-risk exposures to a variety of substances, ETS among them <sup>159</sup>	Papers were published in the ILSI monograph series <sup>160</sup>
1989 Date not	41 <sup>st</sup> “Therapie-Woche” (therapy week)	Not established	Yes, tobacco industry sent scientists	Not established	At the workplace, the impact of secondhand smoke exposure can be disregarded	Not established

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established  KaNrlsruhe, Germany	week)  (One topic being “Passive smoking and its effects on health”)		scientists  According to a draft manuscript which he prepared for this event, D. Henschler (RJR grantee) was to present <sup>161</sup>		exposure can be disregarded in the face of the total load of other carcinogenic compounds	
1989  09/26-09/27  Neuchatel,  Switzerland	Workshop to assess low level health risks of environmental contaminants  *No evidence found of meeting taking place; information based on preparatory materials found for this event	Fabrique de Tabac Reunies Science and Technology (host)  Verband, BAT, INBIFO, Georgetown University (organizers)	Yes, by way of organizing, hosting and presentations given by tobacco industry linked persons at the workshop <sup>162</sup>	Not established	Not established	Not established
1990  04/24-04/16  Lisbon,  Portugal	“Indoor Air Quality and Ventilation”	British Occupational Hygiene Society	Yes, through funding <sup>105</sup>  Persons with links to the tobacco industry, such as R. Perry and FJC Roe, were on the technical organizing committee <sup>163</sup>	No, preliminary program/agenda only listed IAI as sponsor <sup>164</sup>	Not established	54 papers based on those presented at the conference were published <sup>165</sup>
1990  06/18-06/22  Budapest,  Hungary	International Conference on Toxicology; included a half day meeting on “Environmental Tobacco Smoke: Science and Meta- Science”	Toxicology Forum, Washington D.C.  G. Gori, organizer	Yes, organized by Philip Morris and the Verband <sup>166</sup>  Several speakers with links to the	Not established	ETS does not constitute a health risk based on the available science  ETS not convincingly shown to have any of the serious health risks claimed	Report in the German Medical Journal “Ärzte-Zeitung” <sup>169</sup>  Report in the daily newspaper “Hannoversche Allgemeine Zeitung” on August 4, with the headline “The affliction of the researchers regarding smoking ...

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	Science”		tobacco industry, including H. Magnussen, D. Schmähl, F. Adlkofer <sup>167</sup> and Überla <sup>168</sup>			damage through passive smoking hard to establish”. The article states that, according to the predominant conclusion of the congregated experts, the allegation of the harmfulness of passive smoking goes up in smoke when its scientific content scrutinized <sup>170</sup>  Article in the German Newspaper, Der Tagesspiegel with the headline Passive smoking: Science in lack of evidence direct damage to health difficult to establish <sup>171</sup>
1990 11/15 Münster, Germany	“Smoking and the environment – smoking and the workplace”	Foundation Immunity and environment (Stiftung Immunität und Umwelt)	Yes  Verband representative F. Adlkofer gave a presentation on smoking in the workplace <sup>172</sup>	Not established	It is rather unlikely that the cancer risk and risk for heart disease in healthy adults is increased by passive smoking  Risk assessment on the basis of epidemiological data is questionable  Smoke-free policies at the workplace cannot be justified with a health hazard of otherwise healthy nonsmokers <sup>172</sup>	The proceedings of this symposium were published in the Journal Immunity and environment <sup>173</sup>
1990 09/19-09/23 Davos, Switzerland	Scientific continuing medical education event “Progress in Allergology and Dermatology”	Clinic for Allergology and Dermatology  S. Borelli, organizer, was recipient of Verband research funds as far back as the 1980s <sup>174</sup>	Yes, Verband supported the event with DM 70 000 (US\$ 35 000) <sup>175</sup>	Not established	Magnussen concluded that “passive smoking does not result in any acute reactions of the respiratory tract in patients with bronchial asthma” <sup>168</sup>	German Newspaper Rhein-Zeitung reports, with the headline “dance without remorse” <sup>176</sup>  German Newspaper Frankfurter Neue Presse reported, with the headline “much to do about passive smoking?” <sup>177</sup>

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		the 1980s <sup>174</sup>				
1990 Date not established Heidelberg, Germany	Symposium on cancer risk factors in the head and throat	Tumor Center Heidelberg/Mannheim  German Association of Commercial and Industrial Workers' Compensation Insurance Carriers  Research Council Smoking and Health	Yes  Adlkofer lectured on passive smoking <sup>175</sup>	Not established	Not established	Event was covered in the Medical Journal "Der Kassenarzt" which reported that "competent experts clearly articulated that passive smoking plays an absolutely subordinate role in the concert of risk factors" <sup>178</sup>
1990 09/08 Heidelberg, Germany	German Cancer Congress	Not established	Yes  F. Adlkofer presented <sup>179</sup>	Not established	Not established	Report in the German Medical Journal "Neue Ärztliche" on September 17, 1990 (Nr. 177) <sup>179</sup> (secondary citation)
1990 9/10-9/14 Freiburg, Germany	Annual Meeting of the European Society of Pneumology	European Society of Pneumology and the European Pediatric Respiratory Society	Yes, former CTR grantees presented <sup>180</sup>	Not established	Not established	Not established
1990 10/14-10/17 Titisee, Germany	7 <sup>th</sup> Scientific Symposium of the Research Council Smoking and Health  Secondhand smoke one topic among others	Verband's Research Council Smoking and Health	Yes, see 1989 Titisee conference  Oral and Poster presentations to document and discuss the status of the research projects sponsored by the	Not established	Not established	Extra volume of the German Medical Journal "Klinische Wochenschrift" <sup>17</sup> (secondary source)

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			Research Council			
1991 04/23-04/25 Mannheim, Germany	Interdisciplinary Colloquium of the Clean-Air Commission of the German Federation of engineers (VDI) and the German Institute for (DIN): "Cancer causing agents in the environment"	Not established	Yes, Verband representative F. Adlkofer presented on the assessment of exposure to tobacco smoke via biological monitoring <sup>181</sup>	Not established	<p>The available epidemiological studies to date cannot be interpreted unequivocally<sup>182</sup></p> <p>No clear-cut evidence for a cancer risk due to second hand smoke has been rendered, neither by toxicological nor by epidemiological studies/research<sup>181</sup></p>	<p>An issue of the pamphlet "VDI-Berichte" (out of the monograph series of the German Federation of Engineers) reports about the colloquium<sup>183</sup>, (Adlkofer's presentation included)</p> <p>The German Medical Journal "Der Niedergelassene Arzt" reported, with the headline "Passive smoking: Health risk still not defined clearly", stating that it can be concluded from the studies with non-smokers exposed to second hand smoke, both that these individuals have a slightly increased risk for cancer of the airways, or that there is no risk at all<sup>182</sup></p> <p>The magazine "Health News" reports, with the headline "Passive smoking. One cannot extrapolate the risk of the smoker to the non-smoker<sup>181</sup></p> <p>The German magazine Psycho reports with the headline "Passive smoking: burden at the workplace overestimated"<sup>184</sup></p>
1991 05/29-05/31 Montreux, Switzerland	International Conference Priorities for Indoor Air Research and Action	Indoor Air International	Yes, tobacco industry was involved in the organization via IAI, an industry funded organization and	Not established	Not established	Not established

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			provided speakers, e.g. FJC Roe <sup>185</sup>			
1991 06/25-06/27 Düsseldorf, Germany	Third European Meeting of Environmental Medicine	Medical Institute for Environmental Hygiene at University of Düsseldorf, Prof. Seemayer	Yes  An INBIFO staff person <sup>186</sup> and A. Tricker of the Research Council Smoking and Health <sup>187</sup> attended  G. Oberdörster, who had served on Indoor Air Pollution Advisory Group (IAPAG) as scientific consultant for the Tobacco Institute presented <sup>188</sup> }	Not established	Not established	Not established
1991 09/10-09/13 Luxembourg	Conference “Clean Air at Work”	Commission of the European Communities	H. Reif of PM attended  Indoor Air International (IAI-tobacco industry affiliate <sup>189</sup> ) had an exhibition booth <sup>190</sup>  Representatives of HBI/Europe were to present <sup>191</sup>	Not established	Not established	The proceedings were published by the Royal Society of Chemistry <sup>192</sup>
1991 09/16-20/09 Karlsruhe,	European Aerosol Conference	Not established	Yes  INBIFO staff person presented <sup>193</sup>	Not established	Not established	The proceedings (detailed abstracts) were published by Pergamon Press <sup>194</sup>

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Germany						
1991 10/09-10/11 Hannover, Germany	3 <sup>rd</sup> International Symposium  Advances in Controlled Clinical Studies	Hannover Medical School, U. Mohr  International Life Sciences Institute (ILSI) (tobacco industry affiliate <sup>132</sup> ) and Fraunhofer Institute for Toxicology and Aerosol Research	yes  INBIFO staff person attended <sup>195</sup>  H. Magnusson and G. Scherer presented, F. Colby of RJR was present <sup>196</sup>  Representatives of Rothman, BAT; also Shook, and Hardy & Bacon in attendance <sup>197</sup>	Not established	Not established	All contributions were published in the ILSI monograph series, a book by the title 'Advances in controlled clinical inhalation studies' <sup>198</sup>
1991 10/11 Paris, France	Indoor Air Pollution	IAI  French Association for the Prevention of Atmospheric Pollution	Yes, prepared among IAI and PM, together with University of Dijon and PR company <sup>190</sup>	Not established	Not established	Not established
1992 02/27-02/28 Innsbruck, Austria	Toxicology of air contaminants from road traffic and other sources: 5 <sup>th</sup> Seminar for Toxicology	Austrian Society for Toxicology and Austrian Society of Chemists	Not established	Not established	Misclassification of smoker status and tumor type result in an overestimate of the RR of lung cancer due to passive smoking	Not established
1992 03/30-03/31 Düsseldorf, Germany	Indoor Pollutant Contaminations	Department of Environmental Protection of the city of Düsseldorf	INBIFO staff attended <sup>199</sup>	Not established	Not established	Not established



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1992 Date not established Düsseldorf, Germany	Criteria for Assessment of Pollutants in Indoor Air	Commission for Air Pollution Prevention of the DIN (German Normalization Organization) and VDI (German Federation of Engineers)	Not established	Not established	Not established	Proceedings were published in the VID monographs <sup>200</sup>
1992 Date not established Düsseldorf, Germany	Public expert panel “Does work make ill?”  Within the frame of the Medical Fair “MEDICA”	The publisher of the Medical Journal “Der Kassenarzt”  Event took place under the patronage of the European Year for Security and Health Protection at the workplace of the EU-commission	Not established	Not established	Passive smoking plays an absolutely subordinate role compared to other risk factors <sup>178</sup>	Not established
1992 09/16-09/18 Munich, Germany	Conference on Environment and Health	Institute for Ecological Chemistry of the German National Research Center on Environment and Health (GSF)	Yes, Verband supported this event with 10 000 Deutsche Mark (US\$ 5000) <sup>179</sup>	Not established	Not established	Not established
1993 02/14-02/17 Titisee, Germany	8. Scientific Conference of the Research Council Smoking and Health  Secondhand smoke one topic among	Research Council Smoking and Health	Yes, see 1989 Titisee conference  Oral and poster presentations given to document and discuss the status of	Not established	Not established	Part of the presentations were contributions published in the Clinical Investigator (continuation of “Klinische Wochenschrift”) <sup>202</sup>

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	others <sup>201</sup>		the research projects sponsored by the Research Council			
1993 04/20 Wiesbaden, Germany	Press Conversation (Pressegespräch) “Quality of indoor air”	“NAV-Academy of the Virchow-Bund – Association of Resident Doctors” *** Event took place in the frame of the 99 Congress for Specialists in Internal Medicine	Yes, scientists presented who had previously worked for and/or received funds from the Verband, such as M. Kentner <sup>203</sup> , A. Manz <sup>204, 205</sup> , W.T. Ulmer, and H. Letzel (the latter two were members of the Research Council Smoking and Health)	Not established	Not established	The Press statement concludes: EPA report criticized as politics, not science. Sick building syndrome is discussed. The tenor is that the view for the real risks are obscured at cause of the discussion about passive smoking. Smoking bans are no substitute for effective protection of employees. <sup>206</sup>  The German “Journal für Pharmakologie und Therapie” reports that one of the experts, A. Manz warned that the topic secondhand smoke distracts from the real risks at the workplace and that Letzel presented on secondhand smoke and lung cancer, stating that he had reviewed all existing studies and from these, a link between the two could not be established, not to the negative or the positive. The EPA report was also criticized <sup>207</sup>
1993 03/01-03/05 Hannover, Germany	4 <sup>th</sup> International Symposium at Hannover Medical School  Toxic and carcinogenic effects of solid particles in the respiratory tract	Hannover Medical School, U. Mohr  Sponsored by International Life Sciences Institute (a tobacco industry affiliate <sup>132</sup> ), Hannover Medical	G. Oberdörster was on the conference advisory board and also presented <sup>208</sup>  INBIFO staff presented <sup>209 210, 211</sup>	The program did not disclose the involvement of the tobacco industry <sup>208</sup>	Not established  The tobacco-oriented portion was apparently used by RJR for the novel product PREMIER, presented as being without any secondhand smoke in the puffing intervals <sup>212</sup>	Some of the presentations were to be published as extended manuscripts in the Journal for Experimental and Toxicologic Pathology <sup>213</sup> (secondary source)  The faculty papers were to be published by ILSI Press <sup>214</sup> (secondary source)

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	the respiratory tract	School, Fraunhofer Institute on Toxicology and Aerosol Research			puffing intervals <sup>212</sup>	Press <sup>214</sup> (secondary source)
1993 03/30-04/04 Garmisch-Partenkirchen, Germany	9 <sup>th</sup> Congress on Aerosols in Medicine	International Society for Aerosols in Medicine  German National Research Center on Environment and Health (GSF)	J. Bond, J. Spengler, H. Magnussen, M. Utell <sup>215</sup>	Not established	Not established	Not established
1993 10/26 Munich, Germany	Press Workshop (Expert hearing had been intended, but not realized)  “Indoor Air Quality: Measurement and Evaluation of Minimal Exposures to Airborne Substances”	“NAV-Academy of the Virchow-Bund”	Yes, Verband was involved in the organization of this event <sup>216</sup>  H. Letzel and G. Lehnert presented <sup>217</sup> , and both were members of the Research Council Smoking and Health	Not established	Statutory smoking bans for the protection of non-smokers are not scientifically tenable  A higher risk for lung cancer or heart attacks or other coronary heart diseases due to second hand smoke cannot be derived from international data	The German Journal “Wirtschaftsbrief für den Arzt” reports, stating that the data about lung cancer deaths due to second hand smoke are politics and not serious science. The results about a link between lung cancer and second hand smoke as well as cardiovascular disease and second hand smoke are conflicting. Conflicts about smoking at the workplace are frequently caused by other issues. <sup>218</sup>  Press report by the organizers with the headline “Scientists against smoking-bans” <sup>219</sup>  The Munich Daily Newspaper „Münchener Tageszeitung” reports, with the headline “Doctors against smoking bans” <sup>220</sup>
1993	Symposium: “Smoking – Health	Association “Dialogue forum	Yes, Austria Tobacco sponsored	Yes, disclosed in the program	Not established	Not established

<b>Table 3. Scientific Events Pertaining to Secondhand Smoke and Tobacco Industry Involvement</b>						
<b>Date and Location</b>	<b>Meeting / Event</b>	<b>(Official) Organizers</b>	<b>Industry Involvement</b>	<b>Involvement Disclosed?</b>	<b>Conclusions</b>	<b>Report to Public (&amp; Source)</b>
11/04 Vienna, Austria	“Smoking – Health – Risk Minimization”	“Dialogue forum new thinking – new ground”	Tobacco sponsored the event	program		
1994 02/26 Duisburg, Germany  CANCELLED *This workshop never took place	Workshop “Passive smoking – Environmental tobacco smoke”  Within the 1 <sup>st</sup> International Congress on Environmental Medicine	University of Düsseldorf Professor H-W. Schlipkötter, Organizer (member of the Verband’s Research Council Smoking and Health) <sup>18</sup> German Society for Hygiene and Environmental Medicine State of Northrhine-Westphalia The “Initiative Ruhr Valley”	Yes, VERUM was to provide the funds (DM 70-80 000 equivalent to US\$ 35-40,000) <sup>18</sup> Prof. K. Überla, grant recipient of the Verband, was to be the discussion leader <sup>18</sup>	Not intended, but leaked to the public, as the German Medical Working Group against Smoking and the German Nonsmokers Initiative disclosed information via a joint press statement	Not established	Not established
1994 09/07-09/10 Davos, Switzerland	IX. Seminar “Progress in Allergology and Immunology”	Prof.S. Borelli, recipient of Verband research funds <sup>174</sup>	Donation of DM 5000 (US\$ 2500) made by the Verband <sup>221</sup> mainly due to the fact that S. Borelli “is a Bavarian politician and was helpful in our case” <sup>18</sup>	Not established	Not established	Not established
1994 Location not	“Legal Basis of Humanogenetic Research”	Prof. G. Schettler, Deputy Chairman of the Verband’s	Donation of DM 10 000 (US\$ 5000), paid out of the	Not established	Not established	Not established

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established	Research"	of the Verband's Research Council Smoking and Health	paid out of the Munich laboratory <sup>18</sup>			
1994 10/05-10/07 Ulm, Germany	International Conference on Indoor Air Pollution	Indoor Air International  Institute of Occupational and Social Medicine at the University of Ulm	Yes	Not intended, but was pointed to in a press statement issued on 1 Oct by the German Nonsmokers Initiative <sup>222</sup>	Not established	Not established
1994 06/24 Dresden, Germany	Satellite symposium "Indoor Air and Airway Diseases"  Presented as part of the 5 <sup>th</sup> Deutsche Ärztekongress (German Medical Congress), although not legitimately <sup>++</sup>	Officially by the NAV-Virchow-Bund Akademie, as it turns out together with the WPM** (satellite symposium)  Springer Verlag (organizer of the Medical Congress)	Yes  The agency "Standpunkt" (vantage point) of which Manfred Körner (longtime PR-boss of the Verband) is boss, organized the meeting (Süddeutsche Zeitung, Nr. 173, p 3)	Not established	No higher lung cancer risk for people exposed to secondhand smoke. Even if exposed eight hours, equivalent to the intake of harmful substances in one cigarette	Newspaper "Die Welt" on 25/26, June 94 carried a small article headed "Entwarnung with regards to passive smoking". The article concludes "that there is no scientific evidence for a heightened risk of lung cancer due to secondhand smoking ... Eight hours of passive smoking amount to the intake of harmful substances of one cigarette"  The Medical Journal Medizin&Umwelt title: "Cancer due to passive smoking controversial"
1994 12/05 Hannover, Germany	Workshop  Use and Abuse of Statistics in Environmental Epidemiology	Medical School at University of Hannover, organizer Prof. Berthold Schneider  (The main	Yes, PM was involved in the planning and financing <sup>224</sup> of this meeting which was to reach "an audience of serious	Not established	Not established	Not established

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Date and Location	Meeting / Event	(Official) Organizers	Industry Involvement	Involvement Disclosed?	Conclusions	Report to Public (& Source)
		statistician of the old Verband laboratory and a PM grantee since 1989 <sup>223</sup>	audience of serious regulators and journalists <sup>225</sup>  H Reif of PM attended <sup>226</sup>			
1995 02/20-02/24 Hannover, Germany	5 <sup>th</sup> International Inhalation Symposium:  “Correlations between in vitro and in vivo investigations in inhalation toxicology”  With a special session on tobacco, “Inhalation Toxicology of Tobacco Products: In Vitro and In Vivo Studies”	Hannover Medical School, U. Mohr  ILSI <sup>132</sup> , and Fraunhofer Institute of Toxicology and Aerosol Research	Yes  U. Mohr, the organizer of the meeting had sought financial support from RJR <sup>227</sup>  Representative of RJR met with organizers just ahead of the meeting <sup>228</sup>  B. Schneider, a PM grantee <sup>229</sup> was on the faculty of the conference <sup>230</sup>  Bernhard Wagner, RJR consultant, chaired the session on secondhand smoke <sup>228</sup>  Representatives and consultants of R.J. Reynolds <sup>231</sup> presented, as well as F. Adlkofer <sup>230</sup>  H.-W. Schlipkötter co-authored a poster <sup>230</sup>  INBIFO and CRC	Conference announcements did not reveal the Tobacco Industry <sup>230, 235</sup>  Disclosure not intended, but did leak to the public  (Press statement of the German Nonsmokers Initiative) <sup>236</sup>	Not established	The German newspaper Hannoversche Allgemeine Zeitung carried an article on 24 February <sup>237</sup> , quoting from a presentation by an RJR employee (of which this is a translation), that by way of the development of a novel cigarette which contains less hazardous substances, nonsmokers would be under less strain

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			staff attended <sup>232</sup>  PM staff were prepared for a rebuttal of IARC data, if presented <sup>233, 234</sup>			
1995 03/27-03/29 Hannover, Germany	Updating and revising of air quality guidelines for Europe: meeting of the working group on certain indoor air pollutants	WHO European Center for Environment and Health	Not established, but just a day after a draft report for this event on secondhand smoke by two staff members of the US EPA had come out on March 23, <sup>238</sup> Shook, Hardy & Bac had compiled a summary of this report criticizing its content <sup>239</sup>	Not established	Not established	Not established
1995 06/29 Dresden, Germany	Workshop “Preventive Politics in the Dead-End Street?”  Presented as part of the 6 <sup>th</sup> Deutsche Ärztekongress (German Medical Congress), though not legitimately ++	Officially the “NAV-Academy of the Virchow-Bund”, with the Wirtschafts- und Praxisverlag (organizer of the Workshop)  Springer Verlag (organizer of the Medical Congress)	Yes  The agency “Standpunkt” (vantage point) of which Manfred Körner (longtime PR-boss of the Verband) is boss, organized the meeting (Süddeutsche Zeitung, Nr. 173, p 3)	No	Not established	The nationwide newspaper “Süddeutsche Zeitung” Nr. 153, 6 July 95, p 8: “In the case of secondhand smoke it is hard to establish evidence on whether it constitutes a risk for cancer. Animal experiments cannot be taken as evidence.”
1995	Alpbach Public Health Symposium	Not established	Scientists in the attendance of the	Not established	Not established	Report was published about the event by the Vienna publisher

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Date not established  Alpbach, Austria	within the Annual European Forum Alpbach **** 1995  Symposium Title: “The whole and its parts”		Verband presented: Atteslander and Berthold Schneider <sup>240</sup> (the latter was the main statistician of the old Verband laboratory, and a PM grantee <sup>229</sup> ) talked about the “use and misuse of statistics” (self-responsibility, virtual risks)			Ibera Verlag <sup>241</sup>
1995 09/25-09/26 Würzburg, Germany	International Workshop “From Cancer Hazard to Cancer Risk”	University of Würzburg, Department of Toxicology	Yes, sponsoring by the foundation VERUM <sup>242</sup> (equivalent to US\$ 11,000)  (This leaked and the workshop could only take place after the sponsored sum had been returned to VERUM, as several speakers were to otherwise withdraw)	Yes (sponsoring by VERUM indicated on the invitation sheet, however it is not widely known that VERUM was set up by the Tobacco industry)	Not established	Not established
1995 October Potsdam, Germany	Symposium on “Epidemiological Practices in Assessing Small Effects”	Robert-Koch-Institute (RKI), part of the (dissolved) German Federal Health Office, an institution of the Federal Ministry of Health	The successor organization of the Verband Research Council Smoking and Health, the foundation VERUM supported the event with 150 000 Deutsche Mark (\$US 75,000) <sup>243</sup>	Not mentioned on the program, however leaked in a newspaper report <sup>244</sup>  The sum which VERUM had contributed was disclosed in an interview, published	Secondhand smoking apparently was not discussed directly at the conference, however at the press conference a journalist asked about this and got the answer that a causal relationship between secondhand smoke and lung cancer is not proven	Not established



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			75,000) <sup>243</sup>	in the professional journal <i>Therapiewoche</i> in 1996 <sup>243</sup>  TV program KONTRASTE <sup>245</sup>		
1995 10/17-10/20 Luxembourg	International seminar on assessment of carcinogenic risk from occupational exposure to inorganic substances	WHO, EU Directorate General V (Public Health and Safety at work), Eurometaux, JH Duffus (organizer)	Not established	Not established	Not established	EU Directorate General V (Public Health and Safety at work) put out a summary report  The Medical Journal Deutsches Ärzteblatt reports <sup>246</sup>
1996 04/16 Wiesbaden, Germany	“Kassenarzt-Forum ‘96”  In the frame of the German Congress of Internists	Medical Journal “Der Kassenarzt”	Not established	Not established	Zest for life is the best medicine; consumption is an important contribution to health. A study was presented showing that a coffee, tea or cigarette break acts as the most important stress relief technique.	The Newspaper “Deutsche Tabakzeitung” (Nr. 17, 26 April 1996) reports: “Joy of life is the best medicine – study about the positive effects of semi-luxury foods and tobacco for coping with stress”
1996 11/22 Düsseldorf, Germany CANCELLED	Kassenarzt-Forum as part of the medical fair MEDICA  Debate “Passive smoking – how endangered is the non-smoker?”	The publisher of the Medical Journal “Der Kassenarzt”	Yes, Manfred Körner (long-time PR-boss of the Verband) was the organizer <sup>247</sup>	Not established	N/A	N/A
1997 06/17 Munich,	Expert conversation “Freedom and responsibility – discussed considering as example passive	Peutinger-Institute for Applied Science, Munich (the commercial arm of the Peutinger	Yes	Not by the organizers, however, the Süddeutsche Zeitung reported on 1 September 1998 ties	Causal link between passive smoking and lung cancer is controversial  Passive smoking does not	Proceedings appeared in a supplement of the Medical Journal Münchner Medizinische Wochenschrift <sup>249</sup>

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Germany	smoking”, under the patronage of the state secretary of the Bavarian State Ministry for occupation, social order, family, women and health  Also, a separate symposium took place	Collegium)		between the Peutinger Institute and the tobacco industry, quoting Friedrich Wiebel <sup>248</sup>	constitute any considerable health damage (extremely small or even negligible); at the worst it constitutes an annoyance  Legal aspects pertaining to the regulation of smoking raise considerable constitutional problems that are frequently not considered by “tobacco fundamentalists”	The Medical Journal “Deutsches Ärzteblatt” headline: “Passive smoking: not so bad after all?”, declared that the risk for lung cancer is extremely small and conflicts between smokers and non- smokers could be resolved by consideration and tolerance. <sup>250</sup>  The Medical Journal “Der niedergelassene Arzt” reports: From a toxicological viewpoint, the lung cancer risk due to passive smoking is extremely small or even negligible. From an epidemiological viewpoint, Überla cannot make out a considerably heightened risk for lung cancer due to passive smoking in healthy adults. <sup>251</sup>
1997 10/17-10/18 Heidelberg, Germany	Environmental Medicine Symposium	Academy of Environmental Medicine Heidelberg (Prof. Klett)	Yes, financial support from the Verband (10 000 Deutsche Mark) <sup>252</sup>	Not established	Not established	Not established
1997 02/24-02/28 Hannover, Germany	6 <sup>th</sup> International Inhalation Symposium: “Relationship between Respiratory Disease and Exposure to Air Pollution”	Hannover Medical School, U. Mohr ILSI <sup>132</sup> Fraunhofer Institute for Toxicology and Aerosol Research, National Health and Environmental Effects Research Laboratory, US	U. Mohr, the organizer, had applied for financial support at PM, however, his committee did not want to include an attribution and so he had to back off <sup>253</sup>  Employees of	Not in the program <sup>254</sup>	Not established	The papers resulting from the plenary sessions were to be published as a supplement to the Journal Experimental and Toxicologic Pathology  (We did not find anything in Pubmed for either 1997 or 1998)

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		EPA	Lorillard, INBIFO staff, staff of (Contract Research Center), as well as G. Oberdörster, also on the meeting faculty, presented <sup>254</sup>			
1998 05/25-05/27 Bremen, Germany	First European Symposium on Smoking and Pregnancy: Taking the Chance for Action	University of Bremen  Bremen Institute for Prevention Research and Social Medicine	Not established	Not established	Not established	Proceedings were published in 1998 ( <a href="http://www.nottingham.ac.uk/midwifery/staff/kim-watts.php">http://www.nottingham.ac.uk/midwifery/staff/kim-watts.php</a> )
1998 08/24-08/26 Essen, Germany	International Symposium Passive Smoking and Children: Clinical and Experimental Forums	Institute for Hygiene and Occupational Medicine at the University of Essen	Two representatives from PM covered the event <sup>255</sup>	Not established	Not established	Papers accepted for oral presentation were published as full manuscript in the Journal Human and Experimental Toxicology <sup>256</sup> (secondary source)
1998 09/19-09/23 Vienna, Austria	8th International Congress on combined effects of environmental factors	Institute of Environmental Hygiene at the University of Vienna	Not established  A PM consultant covered the event <sup>255</sup>	Not established	Not established	Not established
1999 02/22-02/25 Hannover, Germany	7th International Inhalation Symposium: "Relationships Between Acute and Chronic Effects of Air Pollution"	Hannover Medical School, U. Mohr  Fraunhofer Institute of Toxicology and Aerosol Research, International Life Sciences Institute (ILSI-tobacco industry)	Yes, organizer Mohr asked Philip Morris for money and invited PM's participation <sup>257</sup>  Several PM employees participated <sup>255</sup>	Not in the first announcement <sup>258</sup>		Not established

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		industry affiliate <sup>132</sup> ), National Health and Environmental Effects Research Laboratory, US Environmental Protection Agency	Two employees of the Swiss company FTR participated as well as several staff of INBIFO (at least one of these also presented)			
1999 March Neuherberg, Germany	5th European Conference on Ecotoxicology and Environmental Safety	Institute for Ecological Chemistry of the German National Research Center for Environment and Health (GSF)	Not established  D. Leyden of PM covered the event <sup>255</sup>	Not established	The potential for pleasure in life is a health factor  Lifestyle cannot be measured by epidemiology	Not established
<p>* Collaboration of the cigarette industry in this meeting is revealed in the speech of the Verband representative at the meeting of the NMA's in Washington DC in 1983,<sup>61</sup> clear evidence that the Verband actually organized the event through the Bavarian Academy in <sup>259</sup></p> <p>** The Wirtschafts- und Praxisverlag (WPM) is a publishing house which published, until 1996, the Medical Journal and Journal of the German College of the Association of Resident doctors, "Der Niedergelassene Arzt" ("the Resident doctor")</p> <p>*** The NAV-Virchow-Bund Akademie turns out not to be an academy at all, but moreover that the NAV Virchowbund, the German College of the Association of Resident Doctors had given the permission to the publishing house WPM to organize "events about varying medical and economic topics" under the name "NAV-Virchow-Bund-Akademie"+ This is not an event pertaining to SHS; though it is a very interesting piece of industry-manipulation: Even though the event was, by its title, a scientific symposium, the majority of the participants were representatives from Federal Ministries, the Federal Parliament and the media, see <a href="http://legacy.library.ucsf.edu/tid/kzb22e00">http://legacy.library.ucsf.edu/tid/kzb22e00</a></p> <p>++ both the satellite symposium in 1994 and the workshop in 1995 were not officially accredited as part of the German Medical Congress, however were presented as such</p>						

C) PR-goals: ... Target level Politics: ... *increase the barriers for interference, while concurrently reducing the will to interfere, particularly outside of the departments for Environment and Health.* ...

D) PR messages: ... Target level politics: Passive smoking is not a real health risk. Protective measures are not scientifically tenable. Legislative smoking bans are national over-assistance ... Legislative smoking bans restrain the freedom of choice of consumers and the freedom of the people affected to come to terms on their own. Legislative smoking bans needlessly endanger jobs in the tobacco sector and tax revenue ...

E) Principles of appearance: *Massive counter-steering on all target levels. ... Aggressive partisanship of the industry in the socio-political conflict in order to support the industry, while accepting of a partial polarization.* [emphasis added]

(A) Ist-Analyse. ... Zielebene Politik: Passivrauchen mindestens in Umwelt- und Gesundheitsbürokratie ein prominentes Thema ... Passivrauchen trotz schwacher Erkenntnislage als Risiko weitgehend akzeptiert. ... Hohe Eignung für Ablenkungsmanöver ... B) Trendanalyse: ... Zielebene Politik: *Wachsender Interventionsdruck*, wachsende ressort- und parteiübergreifende Eingriffsbereitschaft. ... C) PR-Ziele: ... Zielebene Politik: *Erhöhung der Eingriffsschranken bei gleichzeitiger Senkung des Eingriffswillens vor allem außerhalb der Ressorts Umwelt und Gesundheit.* ... D) PR-Botschaft. ... Zielebene Politik: Passivrauchen ist kein tatsächliches Gesundheitsrisiko. Schutzmassnahmen sind wissenschaftlich nicht begründbar. Gesetzliche Rauchverbote sind staatliche Überfürsorge. ... Gesetzliche Rauchverbote beschränken die Wahlfreiheit der Konsumenten und die Freiheit der Betroffenen, sich selbst zu einigen. Gesetzliche Rauchverbote gefährden ohne Not Arbeitsplätze in der Tabakwirtschaft und Steueraufkommen. ... E) Grundsätze des Auftretens: *Massive Gegensteuerung auf allen Zieleneben.* ... *Offensive Parteinahme der Industrie im politisch-sozialen Konflikt zur Rückenstärkung des eigenen Lagers unter Inkaufnahme einer teilweisen Polarisierung.*<sup>273</sup>

This analysis indicated that the tobacco industry saw the urgent need to intervene on a political level and it successfully positioned itself through the cultivation of political contacts, public relations, and lobbying efforts. The document also highlights a growing readiness for political intervention in the second half of the eighties. Again, this was however successfully stalled. A document entitled “ETS – Challenge for the Industry” (1989) acknowledged this successful positioning by the Verband two years later:

Numerous talks between industry representatives and politicians of all parties about the topic of ETS have taken place in the past years. The series of politicians engaged comprises members of the Federal Parliament and of State Parliaments, Federal Ministers and Ministers of Federal States, including Health Ministers. The industry organized parliamentary evenings, had negotiations with the most important committees of the Bundestag (Lower House) and with high-ranking employees from the administration. *A certain group of industry representatives and employees of the Health Ministry is meeting regularly for an exchange of ideas.* All of these political contacts are being cultivated and continuously improved. In conclusion it can be said that the German industry is using a great amount of PR-resources and political lobbying in order to establish its position. [emphasis added]<sup>99</sup>

## The Verband's Efforts to Shape Science and Policy

The tobacco industry realized early on that preventing tobacco control meant refuting the scientific evidence linking secondhand smoke to disease and producing research results favourable to the industry in order to at least make it seem as though the evidence was not unanimous.<sup>274,33,262,275,276</sup> Mirroring similar conclusions drawn by the US tobacco industry in 1978,<sup>277</sup> Franz Adlkofer, Head of the Scientific Department and Secretary of the Research Council on Smoking and Health, in a letter to the members of the Verband's “Ausschuss Tabakforschung” (panel for tobacco research, the predecessor of the Science and Policy Committee) dated August 9, 1983 stated:

Both we and our adversaries know that the crucial issue of social acceptance is inextricably linked to the problem of passive smoking. ... *If the smoker does not only discomfort and harm his own health but also*

that of his environment, smoking cannot be declared as a private affair. It is then the task of the society to restore the order that is perturbed by smoking with its own sanctioning agents. The question of passive smoking will eventually be decided on scientific grounds. We would have little opportunity to influence the development if it were clear from the scientific viewpoint that smoking damages or can damage the health of the nonsmoker. [emphasis added]

Sowohl wir als auch unsere Gegner wissen, dass die entscheidende Frage der sozialen Akzeptanz untrennbar mit der Problematik des Passivrauchens verbunden ist. ... Wenn der Raucher nicht nur sich, sondern seine Umwelt belästigt und gesundheitlich schädigt, kann Rauchen nicht zur Privatsache erklärt werden. Es ist dann Aufgabe der Gesellschaft, mit ihren eigenen Sanktionsmitteln die durch das Rauchen gestörte Ordnung wieder herzustellen. Die Frage des Passivrauchens wird letztlich [sic] auf naturwissenschaftlichem Gebiet entschieden. Wir hätten nur wenig Möglichkeiten, die Entwicklung zu beeinflussen, wenn bei naturwissenschaftlicher Betrachtungsweise feststände, daß Rauchen die Gesundheit der Passivraucher schädigt oder schädigen kann.<sup>278</sup>

nur eine japanische und eine US-Studie die Schädlichkeit des Passivrauchens als bewiesen dargestellt wird, hat der Verband der Cigarettenindustrie e.V., Hamburg, am 29.4.1981 ein Fernschreiben folgenden Inhalts an die Nachrichtenagenturen sowie Rundfunk- und Fernsehanstalten übermittelt:

#### FRAGWÜRDIGE HYPOTHESEN AUS JAPAN.

Zahlreiche namhafte Experten haben bereits öffentlich diese Behauptungen als wissenschaftlich fragwürdig in Zweifel gezogen. So Prof. Dr. med. Dietrich Schmühl in Heidelberg:<sup>1)</sup>

„Es müßte also geradezu eine fantastische krebserzeugende Substanz in den japanischen Zigaretten enthalten sein, die bei so extremer Verdünnung nun auch noch beim Passivrauchen Krebs erzeugt. Das erscheint unter onkologischen Gesichtspunkten nahezu unwahrscheinlich.“

Soeben ist in der neuesten Ausgabe der Münchener Medizinischen Wochenschrift (Nr. 17 vom 24. April 1981) eine weitere ausführliche Kritik erschienen. Darin weist der Nikotin-Forscher Prof. Dr. med. Helmut Schievel vom Deutschen Herzzentrum in München erhebliche methodische und statistische Schwächen nach. Er kommt deshalb zu dem Schluß, daß seit 1977 „keine wesentlichen neuen Erkenntnisse

zum Thema Passivrauchen gewonnen wurden“. Seinerzeit hatte die Deutsche Gesellschaft für Arbeitsmedizin aufgrund internationaler Forschungsergebnisse festgestellt:<sup>2)</sup>

„Der wissenschaftlich eindeutige und objektive Nachweis eines Gesundheitsschadens durch Passivrauchen ist bisher unseres Wissens aber bei keiner Bevölkerungsgruppe geführt worden.“

#### UNHALTBARE BEHAUPTUNG.

Wissenschaftlich unhaltbar ist auch die im „stern“ erhobene Behauptung, daß in der Bundesrepublik Menschen vorzeitig sterben, nur weil sie geraucht haben.<sup>3)</sup> Demgegenüber kommt der Karlsruher Statistik- und Mathematikprofessor Dr. Martin Rutsch in einer Untersuchung zur Rauchermortalität zum Ergebnis, daß eine wissenschaftlich fundierte Aussage hierüber prinzipiell nicht möglich ist, weil sie „unbegründete Kausalzusammenhänge“ vortäuscht. Auch die Bundesregierung ist heute nicht mehr bereit, ihre 1974 erteilte Antwort auf eine parlamentarische Anfrage bezüglich der Anzahl von rauchbedingten Sterbefällen aufrecht zu erhalten.

In einem Schreiben an den Verband der Cigarettenindustrie vom 15. Mai 1979 (Geschz. 343-4910/V) erklärte das Bundesgesundheitsministerium, daß die seinerzeit veröffentlichten Zahlenschätzungen stets unter Vorbehalt gemacht worden seien. Eine Beantwortung gleichlautender Anfragen zur heutigen Situation lehne es ab.

Verband der Cigarettenindustrie  
— Der Geschäftsführer —  
gez. Dr. Harald König

1) Süddeutscher Rundfunk am 5.3.1981

2) Arbeitsmedizin-Sozialmedizin-Präventivmedizin No. 2/1978

3) Prof. Dr. M. Rutsch in Statistische Hefte 1979 Heft 3:  
Gesamt ist eine feststellbare Anzahl von Menschen.

VERBAND DER CIGARETTENINDUSTRIE e.V. 2000 HAMBURG

Figure 2: Verband advertisement in the print magazine STERN.

(Advertisement)

## A message from those who do... to those who don't

Some non-smokers are annoyed by cigarette smoke. This is a reality that's been with us for a long time.

Lately, however, many non-smokers have been led to believe that cigarette smoke in the air can actually cause disease.

And yet there is little evidence and nothing which proves scientifically that cigarette smoke causes disease in non-smokers.

The London Times reported findings from the Institute of Cancer Research in Surrey, England, published in this month's edition of the "British Journal of Cancer", that "passive smoking" for life-long non-smokers carries no significant increase in the risk of lung cancer, bronchitis or heart disease (all allegedly associated with smoking).

The Institute's conclusions are based on a wealth of statistical detail from a study involving 12,000 people. In a study by a Vice-President

of the American Cancer Society in 1981 which involved 175,000 people, it was reported that "passive smoking" had "very little, if any" effect on lung cancer rates among non-smokers.

In the follow-up study published in 1985, no statistically significant increase in risk was reported.

Researchers at the Harvard School of Public Health found that a non-smoker would have to spend 100 hours straight in the smokiest bar to "absorb" the equivalent of a single filter tip cigarette.

Major reviews on "passive smoking" over the last few years have concluded that "passive smoking" cannot be shown to be a health risk. The weight of evidence is summed up in the remarks at the conclusion of the 1984 Vienna Health Conference which was held in co-operation with the World Health Organisation: "Should law makers wish to take legislative measures

with regard to passive smoking, they will, for the present, not be able to base their efforts on a demonstrated health hazard from passive smoking."

Often our own concerns about health can take an improper claim and magnify it out of all proportion; so what begins as a misconception turns into a frightening myth.

Alright, cigarette smoke may be annoying to some non-smokers, but how shall we deal with these problems? Confrontation? Segregation? Legislation?

No. We think annoyance is neither a governmental nor a medical problem. It's a people problem. Smokers can help by being more considerate and responsible. Non-smokers can help by being more tolerant. And both groups can help by showing more respect for each other's rights and feelings.

Don't let intolerant minority pressure groups use you to create divisions between Australians.

Authorised by J.P. Dolfsson, Tobacco Institute, Gold Fire & House, Sydney.

## HERE'S WHAT'S NOW BEING SAID ABOUT TOBACCO SMOKE IN THE AIR.

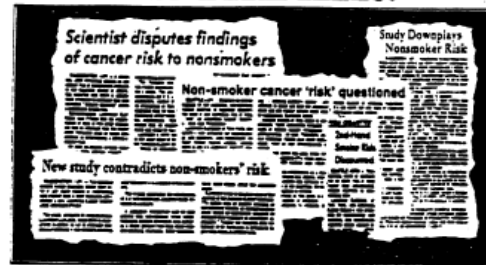


Figure 3: Two advertisements, one run in Australia (above) and one in the USA (right) attacking the evidence linking secondhand smoke and lung cancer by the tobacco industry in those countries. Note similarity to the one the VDC ran in Germany (Figure 2).

Several months ago headlines around the world trumpeted alarming news. A Japanese study was claiming that non-smoking wives of smokers had a higher risk of lung cancer because of their husbands' tobacco smoke. That scared a lot of people and understandably so, if the claim was the last word.

But now new headlines have appeared. First, because several eminent biostatisticians found an apparent statistical error in the Japanese calculation—raising serious questions about the study. Second, because Lawrence Garfinkel, the statistical director of the American Cancer Society who is opposed to smoking, published a report covering 17 years and nearly 200,000 people in which he indicated that "second-hand" smoke has almost no effect on lung cancer rates in nonsmokers.

If you'd like to know more about these developments, write Scientific Division, The Tobacco Institute, 1875 1 St. N.W., Washington, D.C. 20006.

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The Verband worked to achieve this goal by conducting or financing research, recruiting independent scientists, influencing high-level working groups and commissions, and by coordinating, sponsoring and participating in scientific conferences. The industry also monitored public awareness of secondhand smoke and attempted to portray the developments in the US as extremist.

### **Research conducted inside and on behalf of the tobacco industry**

Conducting its own health-effects research both internally and externally played a key role for the tobacco industry. Research was regarded as an essential part of the Verband's policy<sup>19</sup> and was used to maintain credibility with the general public and positive relations with the government.<sup>14,279</sup> The fact that the tobacco industry was successful at maintaining political support was exemplified in a memo between two Philip Morris lawyers dated July 23, 1992:

*The relationship between the industry and the German government seems to be a good deal better than the relationship between the industry and the government in this country. As I understand it, there are regular consultations between government and industry scientists, as well as constructive discussions regarding smoking-related laws and regulations. The industry in Germany appears to be more influential with the government than the industry in the US ... and, for that reason, the industry feels it is important to maintain a substantial research presence. Although I do not believe litigation is imminent in Germany, should it occur, the fact that we are sponsoring research -- whether through the Verband, or individually -- could be of substantial help, in convincing a court that we are fulfilling our duty to conduct research. Nor do I think we should downplay the importance of having scientific contacts in as important a country as Germany.<sup>14</sup>*  
[emphasis added]

The way this benefited the tobacco industry is perhaps best illustrated by a report the Verbands' Managing Director Ernst Brückner gave at a 1990 Verband board meeting on an extensive debate in the Scientific Policy Committee (WPA) regarding the cooperation between the Verband and independent scientists. Brückner explained that the result of this discussion was that:

... the cooperation with the independent science had created a political and societal climate that seems to be to, a large extent, responsible for the relatively relaxed smoking climate in Germany and that the the one and only exonerating facets both with regards to active and passive smoking are solely attainable with the independent scientists who cooperate with us.

... die Kooperation mit der freien Wissenschaft ein politisches und gesellschaftliches Umfeld geschaffen habe das für das relativ entspannte Raucherklima in der Bundesrepublik weitgehend mitverantwortlich sei und daß die einzigen entlastenden Aspekte sowohl des Aktiv- als auch des Passivrauchens nur mit Hilfe und Autorität der mit uns kooperierenden freien Wissenschaftler erreichbar seien.<sup>9</sup>

The Verband's conducting of its own internal and external research was also used to create a collaborative climate with scientists and the health establishment, both by funding outside academics and by maintaining the status of an active and respectable scientific player itself.<sup>19,280</sup> In contrast, the Verband's own facilities were used to conduct research considered too sensitive to be contracted to outsiders.<sup>5,21</sup> In 1984, the Verband research budget for secondhand smoking was DM 6,5 million (US\$ 3.2 million), of which 4 million (62%) was spent on smoking-specific epidemiology.<sup>281</sup> This financial commitment far surpassed expenditures of any other area of research.

The tobacco manufacturers wanted a hand in primary research to try and block potentially important research that could produce results dangerous to the industry. In the summer of 1981, for example, just a few months after Hirayama's publication of the first large cohort study which showed that secondhand smoke increased the risk of lung cancer,<sup>265</sup> Adlkofer suggested that the



Verband conduct a study on secondhand smoke and lung cancer. Representatives from RJR objected on the grounds that the results, if favourable to the tobacco industry's claim that secondhand smoke did not cause lung cancer, would lack credibility in the public. Worse yet, their internal results might replicate Hirayama's.<sup>282</sup> Still, as discussed below, Adlkofer's plan prevailed and the Verband contracted with Karl Überla, President of the Bundesgesundheitsamt (BGA, the German Federal Health Office, equivalent to the US Food and Drug Administration) between 1981 and 1985 for a study seeking to replicate Hirayama's results.

In 1990, another incident of the tobacco industry purposefully blocking the conduct of a study that might produce industry-opposing results occurred. Philip Morris stopped a lifetime sidestream smoke animal inhalation study. A November 1990 "privileged and confidential" memo between PM lawyers in New York and Switzerland reported:

Philip Morris recently succeeded in blocking Adlkofer's plan to conduct a lifetime inhalation study of sidestream smoke. On our visit to Inbifo we learned that Dr. Reininghaus, Director of Inbifo [PM's Cologne-based laboratory that conducted sensitive projects to keep the information out of the US,<sup>283</sup>], provided an analysis of Adlkofer's proposal pointing out that an Inbifo study had shown that in a 90-day inhalation test no non-reversible changes had been detected. *In a lifetime study, the results were almost certain to be less favourable. Based on the analysis, the other members of the German industry agreed that the proposed study should not proceed.*<sup>284</sup> [emphasis added]

There is further evidence that tobacco industry representatives tried to insulate themselves from direct knowledge of potentially detrimental research results. For example, in 1987, a research proposal submitted by a researcher from Vienna concerning the "mutanigicity and thioether excretion in the urine of passive smokers" was approved by the Scientific and Industry Policy Committee of the Verband only under the following conditions:

... The VDC is not the initiator of the project, but a third party (Research Council/Prof. Thureau). Execution of the project in the Munich lab (lab. Prof. Adlkofer, former Prof. Schievelbein). Results available only for Prof. Adlkofer and Dr. Scherer (VDC). Only summarized information to WPA.<sup>285</sup>

The companies wanted "deniability" so that they would not be held legally accountable for not acting on findings that were potentially harmful for them.

### **Recruitment of "independent" scientists**

Part of the industry's strategy to slow public acceptance of the scientific evidence linking secondhand smoke with disease was recruiting "independent" medical and political authorities to speak on this position.<sup>286-288</sup> This strategy was managed worldwide by the tobacco industry through its "International ETS Consultants Program," which, in Europe, was underway by 1987.<sup>262, 286, 289</sup> The rationale for this approach, as specified by a Verband representative at a September 1983 meeting of several National Manufacturing Organizations in Washington DC, recognized that the industry was:

well aware of the fact that it could not speak up for itself being a party in a question which was regarded to be a scientific one. But it could mobilize independent scientists to take up the issue and dispute the effects of passive smoking. This was only possible because the German industry pursued and still does pursue a policy of cooperation with the scientific community outside the industry. This had given it credit and trust in its responsibility and sincerity.<sup>61</sup>

In 1978, a paper was published by Aronow in the *New England Journal of Medicine* reporting that people with heart disease experienced more severe angina (chest pain) and had lower exercise tolerance after being exposed to secondhand smoke.<sup>290</sup> Frank Colby, Manager of Scientific Information for RJR, had drafted, upon request of the Verband, a reply to this study

that was to be sent to the *New England Journal of Medicine* for publication using the signature of one or two of the Verband's medical experts.<sup>291</sup> No reference to the publication of this reply was found, yet the draft lends credence to the fact that the Verband made use of medical experts in their attempts to publicly convey statements favourable to the tobacco industry.

Probably the most important health authority allied with the tobacco industry during the 1980s was Karl Überla. Simultaneously acting as President of the German Federal Health Office, he was head of a private research institute also in Munich, the "GIS" (Gesellschaft für Informationsverarbeitung und Statistik in der Medizin). As Colby noted in an RJR memorandum dated June, 16, 1982, this situation "is permissible in Germany, but [which] would be considered totally unethical in the US and other countries."<sup>282</sup>

As previously reported,<sup>292</sup> Überla, at least once, saw to it that an official BGA statement on secondhand smoke was not detrimental to the tobacco industry. He changed written assessments about secondhand smoke that had been made by his staff in an effort to skew scientific evidence in favour of the tobacco industry.<sup>292, 293</sup> Several "conclusions" in a report by the BGA on lung cancer in persons exposed to secondhand smoke were changed to "hypotheses" and a "proven effect" became a "described effect." He deleted the statement that it was reasonable to make the assumption that secondhand smoke negatively influences and chronically damages lung function and increases the risk of lung cancer in nonsmokers. After Überla's editing, secondhand smoke was merely referred to as an "annoyance" rather than a dangerous substance.<sup>292</sup>

In 1982, the Verband contracted with Überla's private research institute GIS for a study on "passive smoking and lung cancer."<sup>174</sup> Adlkofer explained how the Verband won over Überla:

It has turned out that one of the highest health-political authorities of the Federal Republic [i.e. Überla] has taken a very balanced and sophisticated stance on passive smoking, which has dealt especially critically with the alleged evidence that has been presented so far on the harmfulness of such passive smoking. There is the possibility to consolidate this authority in his conviction so far attained with a scientific endeavor which would extend over several years and also to enable him to make, publicly, on the basis of his own research, decidedly congruent statements.

Es hat sich in der Vergangenheit erwiesen, daß eine der höchsten gesundheitspolitischen Autoritäten in der Bundesrepublik zu dem Passivrauchen eine sehr abwägende und differenzierende Haltung einnimmt, die sich insbesondere kritisch mit den bisher vorgelegten angeblichen Beweisen über die Schädlichkeit eines solchen Passivrauchens auseinandersetzt. Es besteht die Möglichkeit, mit einem über mehrere Jahre sich erstreckenden Forschungsvorhaben diese Autorität in ihrer bisher gewonnenen Überzeugung zu festigen und sie auch in die Lage zu versetzen öffentlich auf der Basis eigener Forschungen dezidiert entsprechende Aussagen zu machen.<sup>278</sup> [emphasis in original]

Adlkofer helped select the advisory board for the Überla study, including Ernst Wynder,<sup>294</sup> an individual with longstanding ties to the tobacco industry.<sup>85</sup>

The results of the Überla study were presented at the International Conference on Indoor Air Quality in Tokyo in November of 1987, an industry-funded conference timed to occur right before the world conference on smoking and health to counter any press generated at the World Conference by questioning Hirayama's conclusions.<sup>295</sup> Überla presented the results again at another conference organized by industry consultant R. Perry at Imperial College London in June 1988<sup>296</sup> and again in a 1990 industry-sponsored monograph.<sup>297</sup> By 1985, GIS roughly had received a total of DM 2 million (US\$ 1 million) from the Verband, and DM 35,000 (US\$17,000) were still due to be paid.<sup>174</sup> Notes about an earlier July 1982 meeting of the Verband project

group on the “epidemiology of passive smoking” suggested that the Verband expected the study to yield helpful results because of Überla’s pre-existing views and the study design:

1. *Prof. Uberla [sic] is Head of the German Federal Health Office (Bundesgesundheitsamt), ie the German “Surgeon General” as well as being head of GIS eV, the commercial contract body submitting the proposal.*
2. Adlkofer was insistent to note that, in the introduction to the proposal, *Uberla [sic] stated that there was no evidence that passive smoking was dangerous to man and that, as long as the pre-study was in progress, that statement remained valid.*
3. It seems, therefore, a valid deduction that the true aim of the pre-study is to demonstrate the impossibility of conducting a meaningful prospective study on passive smoking – rather than to establish the conditions necessary before the main study can be undertaken.
4. If this be so, then it is desirable to load as many additional complications as possible onto the projects.
5. Because of the sensitivity of Uberla’s [sic] position, the establishment of a scientific advisory board composed of his peers internationally who endorse the conclusions of a reasoned report is essential. In which case, Sugimura who is opposed to Hirayama anyway, is a better bet. Hirayama will scarcely agree to condemning his own study.
6. When I gave my verbal report to the BAT group, I outlined the conclusions to which I had come to Fr. [Ruth] Schröder [of BAT Germany]. She confirmed that I was possibly correct and emphasised the need not to include this in my report. She even went so far as to suggest no mention of Uberla [sic] at all, which seemed pointless since he is mentioned clearly in the proposal from GIS ev.. [emphasis added] <sup>298</sup>

In 1985, after it had come to the attention of the public that Überla had worked not only for the tobacco industry, but also for the pharmaceutical industry, he resigned as President of the BGA. Nevertheless, because he has continued to hold important posts (until 2004, Karl Überla was Head of the Epidemiological Department of Ludwig-Maximilian University in Munich as well as coordinator and speaker of the Bavarian Public Health research cooperation [Forschungsverbund Public Health]), Überla continued to receive funds from the tobacco industry. This is evidenced by a December 4, 1989 letter from Überla to Adlkofer in which Überla suggested several projects to be supported financially by the Research Society Smoking and Health. Among other things, Überla asked for money to publish his Hirayama-related work and for the post-graduate course of studies in public health and epidemiology which he developed at the time.<sup>299</sup> Adlkofer’s answer on 23 January 1990 indicated that the Research Society granted Überla a sum of 20, 000 German marks (equivalent to US\$ 10,000).<sup>300</sup>

Overall, the tobacco industry in Germany has been able to maintain a level of respectability that allowed it access to high-level authorities, highly regarded scientists, and scientific institutions.<sup>301 174, 302-304</sup> The contacts ranged through all scientific disciplines and included a number of individuals who held key positions such as Karl Überla, President of the Federal Health Office (until 1985),<sup>174</sup> Dietrich Henschler, Chairman of the MAK-commission (until 1991),<sup>15</sup> Helmut Valentin, President of the German Society for Industrial Medicine (until 1985), and the Bavarian Academy for Industrial and Social Medicine (until 1991).<sup>305 285</sup> or Helgo Magnussen, president of the German Association of Pulmonology (until 2004).<sup>306</sup> For the Verband’s Research Council on Smoking and Health, individuals were selected who were generally well-respected and well-known and who were affiliated with universities or institutes where they typically held the post of director or chairman, such as Dietrich Schmähl of the German Cancer Research Center and Helmut Schievelbein of the German Heart Center.<sup>307</sup> (See Table 4 for a list of the individuals affiliated with the Research Council Smoking and Health between 1976 and 1990.)

### **Influencing high-level working groups and commissions**

The continuous influence of the Verband and its representatives on high level committees is exemplified by the three following instances.

<b>Table 4: Verband-Initiated Research Council “Smoking and Health”:</b> <b>Purpose &amp; Membership</b> <sup>23, 24</sup>		
<b>Targets:</b> Initiate research on effects of tobacco smoke on humans to enable the production of socially accepted cigarettes; balance anti-statements	<b>Founded:</b> 1976 by initiative of VdC	<b>Working Principle:</b> Independent research funded indirectly by the VdC to high credibility against anti-smokers
<b>Member</b>	<b>Involvement (est.)</b>	<b>Affiliation</b>
Professor Dr. G. Schettler	1976-1979	Medical Clinic of the University Hospital of Heidelberg
Professor Dr. F. Bender	1976-1979	Cardiological Department of the University Clinic of Münster
Professor Dr. G. Carstensen	1976-1979	Surgical Clinic of the Lutheran Hospital in Münster
Professor Dr. G. Grimmer	1976-1979	Biochemical Institute for Environmental Carcinogens in Ahrensburg
Professor Dr. E Grundmann	1976-1979	Pathological Institute of the University of Münster
Professor Dr. U. Mohr	1976-1979	Department of Experimental Pathology at the Medical College, Hannover
Professor Dr. R. Preussmann	1976-1979	Institute for Toxicology and Chemotherapy at the German Cancer Research Center in Heidelberg
Professor Dr. M. Rutsch	1976-1979	Institute for Statistics and Mathematical Economic Theory at the University of Karlsruhe
Professor Dr. H. Schievelbein	1976-1979	Institute for Clinical Chemistry at the German Heart Center in Munich
Prof. Dr. I. Vogt-Moykopf	1976-1979	Special Clinic for Thoracic Surgery in Heidelberg
Professor Dr. E.L. Wynder	1976-1979	American Health Foundation in New York, U.S.A.
Professor Dr. H. St. Stender	1976-1979	Medical College of Hannover
Professor Dr. F. Adlkofer, Scientific Secretary	1976-1990	Research Council Smoking and Health, Hamburg
Professor Dr. K. Thureau	1976-1990	Physiological Institute of the University of Munich
Professor Dr. D. Schmähl	1976-1990	Institute for Toxicology and Chemotherapy at the German Cancer Research Center Heidelberg
Professor Dr. H. Kewitz	1980-1990	Free University of Berlin
Professor Dr. H-W. Schlipköter	1980-1990	University of Düsseldorf
(contined on next page)		

Professor Dr. H.G. Lasch	1983-1990	University of Gießen
Professor Dr. G. Lehnert	1983-1990	University of Hamburg
Professor W.Z. Ulmer	1983-1990	University of Bochum
Professor Dr. K. Kochsiek	1987-1990	University of Würzburg
Professor Dr. D. Seidel	1987-1990	University of Göttingen
Professor Dr. U. Löhrs	1988-1990	University of Lübeck
*Involvement encompasses only time estimated from cited documents and may not be comprehensive		

### 1) Working Group “Cancer Risk due to Smoking”

In 1983, a working group on “Cancer Risk due to Smoking” (Krebsgefährdung durch Rauchen) was set up by the Federal Ministry of Health as part of Germany’s contribution to the EU “Europe Against Cancer” program. This working group was to provide advice to the federal government on issues surrounding active as well as passive smoking.<sup>72</sup> Of the 24 members the Ministry invited to comprise this working group, at least five individuals, Franz Adlkofer, Dietrich Schmähl, Gerhard Lehnert, Klaus Thureau and Jürgen v. Troschke, had worked for or received funds from the Verband.<sup>304, 308, 309</sup> Even though this working group did not have any kind of programmatic or legislative authority, the group’s composition gave the Verband legitimacy at the Federal Ministry of Health and put it in a position to influence government policy. An industry document which gave an overview of several Verband-funded research projects, including one that Professor Jürgen v. Troschke conducted for the Verband, revealed:

Prof Troschke is member of the Government Working Group “Cancer Risk due to Smoking” in Bonn. He was project leader of several Government projects on smoking ... *Prof. Troschke speaks for us in the working groups.*<sup>310</sup> [emphasis added]

A 1984 report provides insight into a presentation given by v. Troschke, beneficial for the tobacco industry thanks to its positive rhetoric about smoking:

He presented his ideas of psychosocial benefits of smoking; he described smoking as a regularly satisfying experience for the smoker which perhaps might reduce workplace absenteeism. Hence, Prof. Troschke concluded, health information programs for smokers are a paradox.<sup>311</sup>

In 1986, the cancer risk working group was temporarily disbanded and reconstituted with the exact same membership, save Ferdinand Schmidt, Chairman of the NGO Medical Working Group Smoking and Health.<sup>72, 309</sup> Schmidt documented the events leading up to being removed from the committee in an open letter addressed to the members of the German Bundestag in 1986:

Especially the Chairman of the so-called “Research Council” of the industry in such an unmistakable manner let himself be used in the hearing in April ‘85 as the advertising-pushcart of the industry that I demanded his resignation as Chairman of the Research Council at the following meeting of the working group “cancer risk due to smoking” in a written “statement” a copy of which was forwarded to all of the members of the parliamentary commission for youth, family and health. As a reaction to this, the Federal Health Ministry dissolved the working group “cancer risk due to smoking”, however with the reservation of reinstalling it at a later point in time. As the committee had developed into a debating society, I did not shed tears over that. A few days ago however, I learnt that in the meantime the working group has been once more summoned for October of this year [1986]. All members of the Research Council of the industry had been invited again; only I did not receive an invitation. From this, it appears that the dissolution of the working group only served the end to get rid of an inconvenient admonisher. At the same time, this documented, again, the preferential treatment of the cigarette industry and its representatives, so that it

would be unworlly to have doubts about a direct link between this unmistakeable industry dependence on our political parties which becomes apparent from the explained examples with the party donations.

Insbesondere der Vorsitzende des genannten "Forschungsrates" der Industrie [Klaus Thureau] ließ sich auf dem Hearing im April '85 in so unverkennbarer Weise vor den Werbekarren der Industrie spannen, daß ich in der folgenden Sitzung des Arbeitskreises „Krebsgefährdung durch Rauchen“ in einer schriftlichen „Erklärung“ seinen Rücktritt als Vorsitzender des Forschungsrates forderte; eine Kopie dieser Erklärung wurde anschließend allen Mitgliedern des Bundestagsausschusses für Jugend, Familie und Gesundheit zugeleitet (attachment omitted). Als Reaktion darauf löste das Bundesgesundheitsministerium den Arbeitskreis „Krebsgefährdung durch Rauchen“ auf, allerdings mit dem Vorbehalt, ihn zu einem späteren Zeitpunkt erneut einzuberufen. Da sich dieses Gremium ohnehin zu einem reinen Debattierklub entwickelt hatte, weinte ich ihm keine Träne nach. Vor wenigen Tagen erfuhr ich jedoch, daß die erneute Einberufung inzwischen für den Oktober des Jahres erfolgt ist. Alle Mitglieder des Forschungsrates der Industrie wurden erneut eingeladen; nur ich erhielt keine Einladung. Daraus geht hervor, daß die Auflösung nur den Zweck verfolgte, einen unbequemen Mahner loszuwerden. Gleichzeitig wurde dadurch erneut die Vorzugsbehandlung der Zigarettenindustrie und ihrer Vertreter dokumentiert, so daß es weltfremd wäre, einen direkten Zusammenhang dieser aus den dargelegten Beispielen unverkennbaren Industrieabhängigkeit unserer politischen Parteien mit den Parteispenden zu bezweifeln.<sup>309</sup>

## 2) MAK-commission

After 1969, when the MAK-commission had discussed setting a threshold level for nicotine and recommended the restriction of smoking at the workplace,<sup>39</sup> the inclusion of secondhand smoke into the MAK-list was again discussed by the commission in 1980 upon recommendation by one of its members, Herbert Remmer, Director of the Institute of Toxicology at the University of Tübingen.<sup>312</sup> As an RJR memorandum written by Frank Colby in 1981 revealed, Dietrich Henschler, Chairman of the MAK-Committee between 1969 and 1991, did not support the request of having the MAK-commission consider secondhand smoke. The same memo suggested that "off the record" Henschler considered this request nonsensical and did not believe that it had a chance of ever being approved.<sup>312</sup> Henschler received funds from RJR in the late 1970s for research related to thresholds in chemical carcinogenesis,<sup>15</sup> before the discussion about the inclusion of secondhand smoke into the MAK-list took place.<sup>313</sup> We do not know how long this funding continued.

The MAK-commission deliberated on secondhand smoke for over four years. Finally, in 1985, the MAK-Commission included "passive smoking" in the section that included substances definitely proven or suspected on justified grounds to be carcinogenic (Section III).<sup>314</sup> Because secondhand smoke was included as a separate chapter (separate chapters are generally made by the MAK for mixtures of substances, such as tobacco smoke) within section IIIb, it was not formally listed in one of the three MAK-sections of carcinogenic substances and secondhand smoke was not formally declared an occupational substance (Arbeitsstoff). Whereas the commission concluded that a cancer risk was to be assumed because secondhand smoke contained a mixture of carcinogenic substances, the commission labeled the risk of lung cancer elicited by passive smoking merely as "under discussion". Thus, the commission was equivocal about whether or not secondhand smoke was to be considered a carcinogen in the workplace. Generally, substances classified in section IIIb have no regulatory consequences. In consequence, the assessment of the MAK commission was not referred to the AGS and no formal decision was made on the regulation of secondhand smoke in the workplace. Instead, the MAK commission recommended to take appropriate preventive measures for workplaces that were *highly* contaminated by tobacco smoke.<sup>314</sup> In practice, the 1985 assessment by the MAK-commission did not impact every day life.

Though the Verband had considered taking legal steps against the MAK-inclusion of secondhand smoke,<sup>315</sup> it did not pursue such action. Adlkofer had argued at a November 27, 1985 Verband Scientific Committee meeting that a legal confrontation with the MAK-commission would be ill-advised. Whereas the meeting notes do not supply the reason for this position, it is likely that the tobacco industry would have received negative media response from an open confrontation against such a high-standing committee.<sup>316</sup> When it was clear that including secondhand smoke could not be prevented, the Verband worked to classify secondhand smoke in a different section (under pyrolysis products from organic substances) which would be less conspicuous than a separate chapter.<sup>317</sup> In a presentation (probably by Adlkofer) to industry representatives, it was conceded that the MAK-commission's rationale for the inclusion of secondhand smoke was viewed as "cautious and difficult to contradict from the scientific point of view."<sup>318</sup> However, the presenter predicted that the federal government was not going to do anything in response to the MAK-classification:

In spite of this [the MAK-classification of second-hand smoke in 1985], the Federal government does not feel compelled so far to modify the nonsmoker's [sic] protection program. In its opinion, the text outlined in the MAK list does not provide proof of the carcinogenic effects of passive smoking. *The attitude of the Government is supported by a vote issued by the working group "Krebsgefährdung durch Rauchen"* (cancer risk due to smoking) who advise [sic] the Federal Ministry of Health and the Government.<sup>318</sup> [emphasis added]

This account gives an indication of how useful the tobacco industry representation in the Working Group "Cancer Risk due to Smoking" (see above) essentially was. The actual vote of the working group, Cancer Risk Due to Smoking, read:

At the present state of knowledge and on the assumption that concentrations below the no-effect level cannot be given so far, and in view of preventive health protection, the working group recommends that tobacco smoke concentrations in indoor air should be kept as low as possible. The regulating measures should range from improved room ventilation, or special air circulating and cleaning devices, to a limitation of tobacco consumption, or in special cases, to a ban on smoking. The working group recommend further that special technologies be developed in cigarette manufacturing in order to lower the production of sidestream smoke and its detrimental effects. To gain better insight into the matter, further research is needed to estimate the risk related to passive smoking.<sup>318</sup>

While masked as proactive, this statement was deceptively weak. It did not recommend any effective measures to reduce the health danger of secondhand smoke. From the point of view of the tobacco industry, both the MAK-listing and this vote passed without serious consequences.

In 1997, secondhand smoke was again reviewed by the MAK-commission. The 1998 MAK-list placed secondhand smoke in category A1, defined as "substances which are definitely carcinogenic to humans and which can be expected to contribute substantially to cancer risk".<sup>319</sup> Part of the underlying justification for this classification was the 1992 US EPA report.<sup>320, 321</sup> The vote in the MAK-commission for the change of the classification had originally been scheduled for January 29, however, through "new data submitted by the VdC [Verband] and the influence of Adlkofer, the vote was postponed."<sup>322</sup> This change of date was very important for the tobacco industry, as the final vote on a law for the protection of nonsmokers was due on February 5, 1998. The draft law was defeated before the MAK-commission voted (see below). The delay of the MAK-commissions' listing of secondhand smoke may have contributed to this defeat.

Since MAK-classifications are in general used to establish permissible exposure limits, a representative of Philip Morris brainstormed potential measures for the protection against secondhand smoke, which the MAK-classification of secondhand smoke in 1998 could have

entailed. In an interoffice correspondence he stated that either of two scenarios was conceivable: that the German regulators establish a permissible exposure limit, or that they “say that since smoking is unnecessary, it should simply be banned.”<sup>321</sup>

This time, the MAK commission’s assessment of the health risks of secondhand smoke in the workplace was referred to the AGS. The Committee corroborated the assessment of the MAK commission classifying secondhand smoke in the workplace as carcinogenic to humans (category 1). Yet, the AGS did not recommend secondhand smoke to be included into the official list of carcinogenic substances in the workplace. Had secondhand smoke been included on this list, it would have been liable to the same regulation as other carcinogenic substances in the workplace, i.e. its exposure would have had to be minimized to the extent technically and economically feasible. In practice, this means that secondhand smoke would have had to be completely removed from workplaces. Instead, the AGS recommended taking the classification of secondhand smoke as carcinogen into account by amending the Federal workplace ordinance (see below).

The Ministry, however, made no efforts to adopt the recommendation of the AGS. Instead, it waited for the inter-party group of parliamentarians who had initiated and supported two unsuccessful attempts for non-smokers protection legislation in 1994 and 1996 to propose a suitable amendment of the workplace ordinance. The inter-party group presented a proposal to the Bundestag in April 2000 (see below). Again, the 1998 MAK-listing passed without immediate serious consequences.

### *3) Interministerial Working Group on indoor air contamination*

At a Verband board meeting in August 1990, Adlkofer reported that thanks to the efforts of unnamed tobacco industry allies he had been included in an interministerial working group on indoor air contamination as an official expert:

*Professor Adlkofer reported that he has become an expert member of the interministerial working group on indoor air contamination due to the instigation of objective powers. Professor Adlkofer reported that it is being attempted, by a number of intrigues, to deter him from the involvement in this working group. He will however produce an independent expert opinion on the statements of this working group on passive smoking in due time.*

Professor Adlkofer teilte mit, dass er auf Betreiben objektiver Kräfte Sachverständiger der interministeriellen Arbeitsgruppe zur Innenraumluftverschmutzung geworden sei. .... Professor Adlkofer legte dar, dass durch eine Reihe von Intrigen versucht werde, ihn von der Arbeitsgruppe und der Mitwirkung in der Arbeitsgruppe abzuhalten. Er werde jedoch ein unabhängiges Gutachten zu den Feststellungen dieser Arbeitsgruppe über Passivrauchen rechtzeitig vorlegen.<sup>75</sup> [emphasis added]

Adlkofer's addition to the group was described more explicitly by Ernst Brückner (then Managing Director of the Verband) in 1991:

*By means of special connections to several functionaries we succeeded in placing Adlkofer in the group. However, the preconceived opinions are so consolidated that no objective results can be expected.*

*Durch besondere Beziehungen zu einigen Funktionsträgern ist es uns gelungen, Professor Adlkofer als Sachverständigen in die Gruppe einzubringen. Dennoch sind die vorgefassten Meinungen dort so fest, dass keine objektiven Ergebnisse erwartet werden können.*<sup>323</sup> [emphasis added]

Further correspondence between two Verband officials in July 1991 stated that, from the Verband’s viewpoint, the working group did not produce satisfactory results because representatives of both the Ministry of Health and the Ministry of the Environment held to their



positions. As a result, the Verband planned to intervene using high-ranking politicians.<sup>324</sup> The author asked his colleague to intervene at two Bavarian Ministries and a high-ranking individual from the Christian Social Union (CSU), while stating he had already written to the chairs of the Health Working Group of the Christian Democratic Union and the Christian Social Union and to the health political speaker of the Liberals (FDP) in the Bundestag.

### **Setting up, Sponsoring and Participating in Scientific Conferences**

As in other countries,<sup>275, 325</sup> symposia have been widely used by the tobacco industry in an attempt to refute or dilute peer-reviewed evidence that secondhand smoke is dangerous and to influence public opinion and attitudes. In addition to the 1977 conference nominally organized by the Bavarian Academy for Industrial and Social Medicine discussed earlier, a 1989 RJR interoffice memo entitled “ETS – challenge for the industry,” summarized tobacco industry efforts in Germany (as well as France and Italy) to slow the spread of scientific understanding of the dangers of secondhand smoke:

For many years, the industry association (VDC) has been participating in symposia, congresses and hearings concerning the topic of ETS. The goal of such activities is to get in contact with renowned scientists, who, on the basis of their research results, deal with the topic of ETS to our advantage. The industry will then spread these (scientifically based) opinions in the media as widely as possible. Thus, a counterbalance is to be achieved regarding the large number of anti-smoking articles in the German print media. ... Due to the counteractions of the industry, tobacco opponents (nonsmoker initiatives, parliamentarians, government representatives, scientists) have not been successful thus far in scientifically proving any harmful effects caused by ETS. As a consequence, the general public does not consider the ETS [sic] to be a very critical one, and the political authorities are not under pressure to take legal measures for the Federal Republic as a whole.<sup>99</sup>

Table 4 provides an overview of German and other European scientific events at which secondhand smoking was a major topic and at which the tobacco industry was involved. The first industry-instigated symposium took place in 1974, before the evidence that secondhand smoke caused lung cancer, heart disease, and other serious medical problems had been published. We have no indication of whether the tobacco industry organized, sponsored, or participated in further scientific conferences beyond the ones listed in Table 4. While the internal document databases contain only limited information after the mid-1990s, the involvement of individuals with a record of affiliations to the tobacco industry in scientific events continues. For example, Adlkofer presented on the epidemiology of secondhand smoke at a symposium of the International Commission for Occupation Health (ICOH) which took place at the Ludwig-Maximilian University in Munich on April 10, 2002.<sup>326</sup>

### **Monitoring public awareness of secondhand smoke as a health danger and support for smoke-free environments**

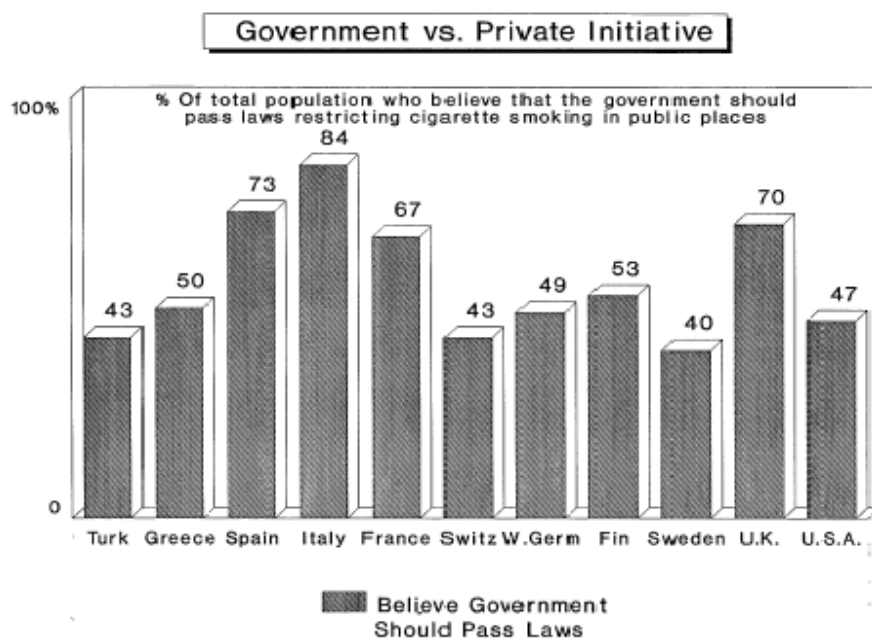
The tobacco industry carefully tracked public attitudes on secondhand smoke and the potential support of regulatory action in Europe to avoid the problems that were emerging for the industry in the US. In 1989, Philip Morris International conducted a public opinion poll comparing attitudes about secondhand smoke and related issues in 10 European countries (West Germany, Switzerland, Italy, France, Spain, Greece, the United Kingdom, Sweden, Finland and Turkey) and the US using a sample of 1,000 adult smokers and nonsmokers (over age 20) per country.<sup>327</sup>

The comparison of Germany and the US yielded several interesting results, showing that public opinion about secondhand smoke in the two countries was similar (Table 5). Secondhand smoke was, in fact, considered a health hazard by a greater proportion of the West-German population than the US population. Germans were also more supportive of governmental action to protect nonsmokers than US citizens (Table 5). Among the European countries, the survey indicated that nonsmokers in Germany desired separate facilities in restaurants to a far greater degree than the populations of most southern European countries (Spain, France, Italy) (Figure 4). While the proportion of the German population favouring government legislation restricting smoking in public places was below some European countries, the 49% of the population which favoured such actions exceeded the US (47%) (Figure 4).

In its summary of main findings, Philip Morris International concluded that:

The perception that ETS represents a danger to health is widespread. ... Both smokers and nonsmokers in Europe desire more rules in the future against smoking in public places. ... *Europeans are generally less opposed to government involvement in the smoking issue than people in the US* [emphasis added]<sup>327</sup>

Given these patterns of public opinion, it is notable that Germany has lagged so far behind the US in developing and implementing policies to provide smokefree environments. A survey identified in the BAT documents and probably conducted by a tobacco manufacturer in 1988, ment” and that 80% of nonsmokers and 48% of smokers considered secondhand smoke to be a very large or large health risk.<sup>328</sup> In addition to surveys conducted by the tobacco industry, several polls were conducted by independent survey institutes that also indicated that the German



**Figure 4: Proportion of the population believing that their government should pass laws to restrict cigarette smoking in public places**<sup>327</sup>

population was aware of secondhand smoke as a health danger and clearly favoured smoke-free policies as early as the 1980s (Table 6).

### **Portraying the developments in the US as extremist**

Despite the fact that public attitudes in Germany (and Europe generally) were similar to – or even more supportive of – government action to restrict smoking than in the US,<sup>327</sup> in Europe in general and in Germany in particular, the industry worked to cast tobacco control efforts and specifically the introduction of smokefree policies in the US as US extremism and intolerance. As in the US and elsewhere,<sup>334 335</sup> tobacco control advocates were portrayed as outlandish crusaders who opposed freedom and wanted lives without risks. By depicting tobacco control as undermining any form of personal responsibility, tobacco control was positioned as a serious threat to the European culture that was portrayed as too open, modern and enlightened for such action.

From the 1990s onward, this strategy seems to have been employed widely. A 1991 letter from Gerard Wirz, Government Affairs Manager of Philip Morris Corporate Services in Brussels revealed that the use of the “American intolerance message” appeared to work well and was to be used to the industry’s benefit:

During a meeting on ETS last week, a consensus seemed to emerge concerning the desirability of using American intolerance as an argument against anti-smoking in Europe (...). Having had the opportunity to use the “intolerance” message personally with European journalists, I can assure you that journalists are easily won over when one explains that we are simply fighting the development of such intolerant behaviour in Europe.<sup>336</sup>

The same letter explained that some commentaries on the subject of “American intolerance” were available in a Phillip Morris ETS reference manual and others would be disseminated later. Additional reference was made to the fact that PMI had “offered to help organize a conference on the sociological phenomenon of American extremism and intolerance in an EC market.”<sup>336</sup> We were not able to determine whether the conference actually took place.

### **1990-2002: Legislating for the protection of nonsmokers**

While the Reunification of Germany in 1990 did not appear to have affected the politics of tobacco control, there were several unsuccessful efforts to pass non-smoker protection legislation in the years following. The tobacco industry documents are less extensive for the late 1990s onward and the available documents likely do not fully detail the behind-the-scenes influence exerted by the tobacco industry; however, detailing the legislative process in itself lends insight into barriers to comprehensive smokefree protection as they stand in 2006.

#### **1992: Resolution of the Bundesrat**

The first recent move at the federal level toward a comprehensive bill to protect of nonsmokers came from the Bundesrat (upper house) in 1992. The Minister for the Environment in Lower Saxony, Monika Griefahn, had introduced a bill for “comprehensive legal nonsmokers’ protection,”<sup>337</sup> stating that tobacco smoke surpassed the risks of all other airborne substances harmful to health and calling for education of the population about the air pollution active and passive smoking causes, and comprehensive statutory protection of nonsmokers (publicly accessible space, including public transport and workplaces). The text of the resolution which the

**Table 5: Public Sentiment About Secondhand Smoke and Desire For Public Smoking Restrictions in Germany as Compared to the US (selected): Results from the 1989 PM Survey<sup>6</sup>**

Item	Germany		US	
	Nonsmokers	Smokers	Nonsmokers	Smokers
Consideration of ETS as health hazard	95%	87%	62%	32%
Nonsmokers finding cigarette smoke annoying	76%	-	71%	-
Would like policy to be smoking not allowed in restaurants	10%	4%	22%	7%
Would like policy to be separate facilities in restaurants	62%	43%	75%	87%
Would like policy to be smoking not allowed in the office	45%	25%	31%	15%
Would like policy to be separate facilities in the office	30%	38%	59%	67%
Would like policy to be smoking not allowed in waiting room/lobbies	27%	12%	45%	25%
Would like policy to be separate facilities in waiting rooms/lobbies	40%	35%	37%	42%
Believe government should pass laws restricting cigarette smoking in public places	49%		47%	
Agree strongly that making smoking socially unacceptable should be major goal of government health policy	25%		30%	
Agree strongly that when smokers and nonsmokers use some courtesy there is no need for government rules	69%		37%	
Agree employers should improve office ventilation rather than ban smoking	74%		64%	

Bundesrat passed in its 646. session on 25 September 1992 made it clear that voluntary self-restrictions were not working:

In particular, the Bundesrat [upper house] is of the opinion that voluntary agreements with the free market economy are indeed an important instrument for the improvement of products relevant to indoor air; the activities of the Federal government must however not be confined to this, moreover they must include regulations for permitting or prohibiting actions in certain cases.

Insbesondere ist der Bundesrat der Ansicht, daß freiwillige Vereinbarungen mit der Wirtschaft zwar ein wichtiges Instrument zur Qualitätsverbesserung innenraumluftrelevanter Produkte darstellen; die Aktivitäten der Bundesregierung dürfen sich aber nicht allein auf dieses beschränken, sondern müssen Gebots- und Verbotsregelungen in bestimmten Fällen einbeziehen.<sup>337</sup>

The resolution further stated that the Bundesrat endorsed the recommendations made in a 1987 special report of an Expert Commission on the Environment which had been charged by the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety<sup>338</sup> and which included comprehensive education of the population about the health dangers of smoking.

<b>Table 6: Surveys on Population Sentiment About Secondhand Smoke and Its Regulation</b>				
<b>Year</b>	<b>Survey institute</b>	<b>Contracting Entity</b>	<b>Sample size</b>	<b>Results (&amp; Source)</b>
1993	Infratest	Tabak-Info-Verlagsgesellschaft	2,020	46% non-smokers 19% smokers favour smoking bans in public places  (25% nonsmokers say government should regulate smokers/nonsmokers relations, 75% say that modus vivendi should be found) <sup>329</sup>
1993	Eurobarometer	EU-commission	12,800	78% favour smoking bans in public places, 19% against  88% favour separate areas in workplace <sup>330</sup>
1994	FORSA	TV-station RTL	501	65% in favour of smoking bans in public places  (40% of the smokers; 78% in former East Germany, 61% in former West-Germany)  (cited in a PM Draft report, dated 1994, see <sup>331</sup> )
1996	FORSA	Not established	Not established	69% pro smoke-free workplaces (including 49% smokers) <sup>332</sup>
1997	GfK Marktforschung GmbH	German Nonsmokers Initiative	2,600 (aged 16-69)	68,1% are for a statutory non-smoker protection  (83,6% nonsmokers; 45,2% smokers) <sup>333</sup>

In 1994 legislation to protect non-smokers was introduced into German parliament. This bill, as well as a further attempt in 1996 was defeated (Table 7).

### **1993/1994: First draft law to protect nonsmokers**

A draft for federal nonsmoker protection legislation was released by the German Non smokers Initiative, NID (a nationally operating nongovernmental organization, comprised of local and regional groups, similar to the US GASPs) at a press conference on March 18, 1993. Three individual members of the Bundestag, Roland Sauer (Christian Democratic Party), Uta Titze-Stecher (Social Democratic Party) and Ingrid Walz (FDP) introduced very similar legislation on March 14, 1993 with the support of 38 (out of 662) members of the Bundestag representing all the political parties.

This bill <sup>339</sup> nominally created smokefree workplaces and public facilities (including the federal administrative offices, public transportation and restaurants with more than fifty seats), but allowed the creation of smoking zones. These smoking areas could not exceed one quarter of space. However, they did not even have to be in a separate room, as long as there was “adequate”

ventilation. (The 7 litres/sec/person specified in the bill was well below the 1,600 to 19,000 litres/sec/person needed to control the odour – not the health impacts - of secondhand smoke<sup>343</sup>). Protecting nonsmokers had broad support: a poll sponsored by RTL television demonstrated that 65% of the German population (including 40% smokers) supported a general smoking ban in public places.<sup>344</sup> Nevertheless, the initiative received wide, most critical, coverage in the media. The German Hotel and Restaurant Association (DEHOGA)<sup>345</sup> and several unions opposed the initiative, whereas leading health organisations supported it. The critical tone of the coverage reflected the success of the tobacco industry's public relations efforts, with headlines such as "Soon there would be a nicotine traffic warden"<sup>346</sup>, "landlords: assault on the friendliness"<sup>346</sup> and "At the bar the topic non-smoking is taboo."<sup>347</sup> Chancellor Helmut Kohl, along with the majority of the deputies in the Federal Parliament, did not support legislation. In 1993, then-Federal Health Minister Horst Seehofer announced that the authority for a comprehensive law on the protection of nonsmokers did not appropriately lie at the Federal level.<sup>348</sup> His parliamentary secretary, Sabine Bergmann-Pohl, in an answer (dated October 10, 1992) to a brief parliamentary enquiry from an individual parliamentarian (of the Social Democratic Party), referred to the fact that the federal government had already issued several decrees on smoking in the workplace.<sup>348</sup>

In February, 1994, the directors of four major German health organizations, the German Heart Foundation, the German Cancer Fund, the German Cancer Association and the German Cancer Research Center wrote a joint open letter to the members of the German Bundestag (lower house), stating that they saw no alternative to clear legal nonsmoker protection. Remarkably, they did not explicitly ask members of Parliament to vote for the bill. The tobacco industry however was surprised by even this mild statement because, as noted in RJR correspondence, it was "the strongest statement of its kind published so far by prominent directors of medical organizations in Germany."<sup>349</sup>

While the tobacco industry would do what was necessary to oppose the bill, it was more concerned about the long term. A 1994 report in the Philip Morris collection entitled "Status of ETS related smoking restrictions in Europe" stated:

Germany: Calls have been made to introduce workplace legislation. However, these are not expected to move under the current government. Proactive plans are now being developed to head off any deterioration in the environment around smoking.<sup>350</sup>

The bill's first Parliamentary reading took place on June 23, 1994, prior to submission to the Parliamentary committees. These committees had only one more working week before the summer break. Because parliamentary elections were due to take place only two working weeks after the summer break, the proposed law died. Later, Uta Titze-Stecher, one of members that introduced the bill, described its failure:

Like every one else in this house [Federal Parliament] ..., we were in the midst of the Federal election campaign. In the face of millions of smokers, no one in the inner circles of the party wanted to confront the voters with this law. The second thing was – this has to be clearly stated – the unwillingness of the party leaders to consult and pass a law of this sort. As is known, there is nowhere as much smoking and puffing as in politics and press offices.

Wie jeder in diesem Hause [Bundestag] ... waren wir damals mitten im Bundestagswahlkampf. Keiner in der engeren Fraktionsführung hatte angesichts von Millionen rauchender Wähler ein Interesse daran, die Wähler mit diesem Gesetz zu konfrontieren. Das zweite war – das muß ganz klar gesagt werden – der Unwille der Fraktionsführungen, ein Gesetz dieser Art zu beraten und zu verabschieden. Wie bekannt, wird nirgends so viel geraucht und gepafft wie in der Politik und in den Redaktionsstuben.<sup>351</sup>

Roland Sauer, one of the initiators of the law, stated that the party leaders had held up the

<b>Table 7: Federal Proposals for Nonsmoker Protections</b>					
<b>Settings</b>	<b>1990 Status</b>	<b>1994 Status</b> <sup>339</sup>	<b>1996, Proposals by Greens</b> <sup>340</sup>	<b>1996, Proposals by Cross-Party Group</b> <sup>341</sup>	<b>2002 Amended Workplace Ordinance</b> <sup>342</sup>
<b>Government Offices</b>	Patchy regulations, frequently including right of the non-smoker to veto smoking	Smoking ban+	Smoke-free policy, including smoking areas*	Smoking ban**	Appropriate measures to protect nonsmokers from tobacco smoke
<b>Offices</b>	Voluntary restrictions	Smoking ban+	Smoke-free policy, including smoking areas*	Smoking ban**	Appropriate measures to protect nonsmokers from tobacco smoke
<b>Other Workplaces</b>	Patchy regulations, frequently including right of the non-smoker to veto smoking	Smoking ban+	Smoke-free policy including smoking areas*	Smoking ban**	Appropriate measures to protect nonsmokers from tobacco smoke
<b>Employee Recreation areas</b>	“appropriate measures for the protection of non-smokers”	Smoking ban+	Smoke-free policy, including smoking areas*	Smoking ban**	Appropriate measures to protect nonsmokers from tobacco smoke
<b>Restaurants</b>	No regulations or provisions	Smoking ban + for restaurants with over 50 seats	Smoke-free policy, including smoke free areas, in restaurants with over 50 seats* (*)	---	Appropriate measures to protect nonsmokers from tobacco smoke, <u>if the nature of the business permits</u>
<b>Bars</b>	No regulations		----	---	Appropriate measures to protect nonsmokers from tobacco smoke, if the nature of the business permits
<b>Other Public Places</b>	Various ordinances, decrees, notices, house rules, statutes		Smoke-free policy, including smoking areas*	----	---
<b>Public Transport</b>	<i>Busses and streetcars:</i> smokefree policy <i>Long-distance trains:</i> Separation of smokers and nonsmokers <i>airlines:</i> separation of smokers and nonsmokers		Smoke-free policy, including smoking areas*	Smoking ban**	----
<b>Enforcement Agency</b>			The establishment of smoking areas, the duty to post signs, the execution and monitoring are the	The monitoring of the smoking ban, the establishment of smoking areas and execution of the duty to post signs the are	Factory inspectorate (Gewerbeaufsichtsämter)

			obligation of the responsible head of the institution	the obligation of the householder	
<b>Eduction / Implementation</b>			implementation and monitoring are the duty of the head of an institution Visible signs and legible announcements are to be posted	visible signs are to point to the smoking ban and the smoking areas	project team “smokefree at the workplace financed by the Federal Ministry of Health (3 staff) until 12/2004
<b>Penalties</b>		Smoking in spite of smoking ban can be fined with between DM 50 and 100 (US\$ 25-50)  Penalties of up to DM 5000 (US\$ 2500) if failure to implement smoking areas	Smoking in spite of smoking ban can be fined with between DM 5 and 100) (equivalent to between US\$ 2.5 and 50)  If the responsible head of an institution fails to implement the areas or to post the signs, (s)he can be fined between DM 100 and 5000) US\$ 50-2500)	Smoking in spite of smoking ban can be fined up to 100 DM (US\$ 50), a fine of between 100 and 5000 DM (US\$ 50-2500) for the failure to monitor the smoking ban or posting signs	Fine of up to 25 000 Euros (equivalent to US\$ 33,000) if employer fails to arrange for protection of non-smoking employees after repeated intervention of factory inspectorate
<b>Disposition</b>		Died in committees, never came to vote	The law was defeated by 335 votes	the law was defeated by 41 votes	In force since October 2 <sup>nd</sup> , 2002
<p>~ a representative survey from 1994 by FORSA found that the protection of nonsmokers is not regulated at all in a third of all businesses, in another third the regulations are patchy. The existing regulations at the workplace depend on the smoking behavior of decision makers, managers, board members. (FORSA: Rauchen am Arbeitsplatz, Ergebnisse einer Repräsentativbefragung unter Managern und Personalentscheidern im Auftrag der “Wirtschaftswoche” (1994)</p> <p>+ with the possibility to create smoking areas, these however may not cover more than 33% of the total available space.</p> <p>* smoking areas can be either separate rooms or separate areas and need to be signposted. If the smokers area is not in a separate room, adequate ventilation needs to be installed. The size of the smoking zones cannot cover more than a quarter of the total available space.</p> <p>(*) The Federal States are authorized to issue special regulations for restaurants in certain circumscribed cases (e.g if a smoking ban would amount to a disproportional intrusion in cultural customs</p> <p>** in buildings and public transport that are subject to this smoking ban, separate rooms or enclosed areas can be established where smoking is allowed. Rooms without public access that are used solely by smokers, are not subject to the smoking ban</p>					



draft as long as possible after its introduction and only tabled it after the maximum six-week period had passed.<sup>352</sup>

### **1996: Second draft law for the protection of nonsmokers**

Following the defeat in 1994, a markedly scaled down version of the bill was discussed in Parliament in 1995.<sup>353</sup> In 1996, the same deputies that initiated the 1994 draft (this time supported by a total of 136 deputies from different parties) submitted a bill which effectively excluded restaurants and bars and made the applicability of the law in the service sector dependent on whether the “nature of the service” was consistent with being smokefree.<sup>341</sup> A second proposal was submitted by the Green Party. It included all publicly accessible buildings and extended its requirements to create smokefree environments to restaurants with more than 50 seats. It also explicitly stated that every employee was entitled to a smoke-free workplace. It also required physicians to educate the parents of children with health conditions due to secondhand smoking about the effects of secondhand smoking on children, and created an education fund financed by taxes on tobacco products and tobacco manufacturers who failed to comply with existing regulations on warning labels in advertisements.<sup>340</sup>

Both bills received first readings in the full federal Parliament on February 20, 1997, then were referred to the relevant committees with the Health Committee having overall charge. Originally, the bill was referred to five relevant committees: Health, Occupation and Social Order, Interior, Justice, as well as Family, Seniors and Women. In addition the bill was sent to committees that would be less sympathetic to the health benefits of the proposed smoking restriction and more sympathetic to the business arguments of the tobacco industry and its allies: Foods, Agriculture and Forests, Tourism, Industry and Commerce, and Transportation.

Instead of dealing with the bill quickly, the Health Committee decided to delay its decision until after the summer break and a minority from the committee called for a full public hearing. The public hearing eventually took place on October 8, 1997. All medical experts, except for two with ties to the tobacco-industry, Franz Adlkofer and Heinz Letzel (a former colleague of Überla who also has a record of links with the Verband),<sup>216</sup> emphasised the health dangers of secondhand smoke and supported legislation.<sup>354</sup> The two representatives from the Catering Trade Union (NGG) and the Umbrella Organisation of the German Trade Unions (DGB) spoke against the bill. The representative of the DGB was also a member of the NGG, which has repeatedly acted as a front organization for the tobacco industry.<sup>97 355 356</sup>

The bill’s opponents, such as the Agriculture Committee, received more press coverage than the proponents, such as the Committee for Family, Seniors and Women.<sup>357</sup> Shortly after the hearing of the Health Committee, Health Minister Horst Seehofer again spoke against the proposal. In a guest comment in the tabloid BILD on October 12, 1997, he called the bill “completely superfluous.”<sup>358</sup> The tobacco industry kept a close eye on the events and tried to intervene as the minutes of a 1997 meeting of the Verband Scientific Policy Committee (WPA) revealed:

Protection of nonsmokers law. It was reported that five boards are now involved in the two draft texts. Whereas the agricultural board has already spoken against the adoption of the two drafts, the Boards of Trade and Foreign Trade have postponed giving further advice until after the hearing of experts by the Board of Health, planned for October. On the other hand, the Youth Board has spoken for the adoption of the Sauer draft. *The industry will seek to find further factually correct arguments to bring into the discussion, and will elaborate alternatives.*<sup>359</sup> [emphasis added]

On November 26, 1997, then-Chair of the Committee for Industry and Commerce, Friedhelm Ost, a declared adversary of the bill, announced that his committee would also hold a hearing.<sup>360</sup> The bill's authors protested on the grounds that the Health Committee had already had its hearing at which all other committees had been invited to share their views. Still, the hearing took place on January 12, 1998.

The day of the hearing, the *Frankfurter Allgemeine Zeitung*, one of the major German nationwide newspapers, reported the results of a study concluding that the law would cost German businesses DM 33 billion (US\$ 16 billion). The report was by a private economic research institute, the "Institut der Deutschen Wirtschaft" (Institute of the German Industry), an institution of the Federal Association of German Industry (Bundesverband der Deutschen Industrie, whose president had already spoken out against the proposed law several times) and commissioned by the tobacco industry.<sup>361</sup> Ernst-Günther Krause of the German Nonsmoker's Initiative had been invited by the Green party to testify at the hearing as a business expert and criticised the report on several grounds: the report claimed to give a calculation of the total expenses that the proposed law for the protection of nonsmokers was to cost businesses, however, the fiscal claim was not at all representative of German businesses; only 10 of 300,000 businesses with over 9 employees had been included and only businesses with little or no protections for nonsmokers had been asked to provide estimates for the costs that the proposed law would entail; and the study only examined the purported costs and not the potential benefits which would be achieved, such as less employee illness. These one-sided studies predicting economic chaos are a well-established tobacco industry tactic for opposing smoking restrictions.<sup>335</sup>

In November 1997, the bill's sponsors, together with 123 other deputies called on the health committee to report the status of its deliberation on the bill, an action to reproach the committee for its idleness. They negotiated a concrete timetable for the Parliamentary consultations which foresaw the second and third reading in full Parliament on January 15 or 16, 1998. After the second reading, the Green's bill was defeated and on February 5, 1998, the multi-party bill was defeated with 335 deputies voting "no" (255 voted "yes," 34 abstained).<sup>362</sup> As in 1994, the German Bundestag voted against popular opinion. Several representative surveys from the 1990s concurred with earlier polls on public attitudes about smoking which had suggested the great majority of nonsmokers and a high proportion of smokers approved of statutory protection of nonsmokers.<sup>329, 363, 364, 365</sup> A representative poll commissioned by the German Nonsmokers Initiative (NID) and administered by the survey institute GfK Marktforschung, yielded, in 1997, the result that 68% of the German population aged 16-69 was in favour of statutory protection of nonsmokers.<sup>333</sup> Approximately 84% of nonsmokers favoured the statutory protection and almost one in two smokers (45%) agreed. The results of this poll were included in a letter to all members of parliament by the German Nonsmokers Initiative, dated December 29, 1997. This letter further included facts on the economic benefits of the protection of nonsmokers at the workplace which were also printed in the magazine of the Nonsmokers Initiative as talking points for further letters to deputies.<sup>366</sup>

On January 29, 1998, shortly before the final Parliamentary vote, a survey was published reporting that over three-thirds of Germans (73% of nonsmokers, 90% of smokers) did not want new legislation and that 42% of nonsmokers and 75% of smokers regarded the existing regulations as sufficient.<sup>367</sup> A press statement by the German Nonsmokers Initiative reported that Burke AG, the survey institute that conducted the poll, had close links to the Institut der Deutschen Wirtschaft which had produced the economic study claiming that the bill would hurt

the economy. It also stated that the results were in stark contrast to all other surveys carried out on the subject.<sup>368</sup>

## **2002: Amendment of the Existing Workplace Ordinance**

After the attempts for comprehensive nonsmoker protection legislation had been defeated twice, a multi-party group of four individual members of the Bundestag (interfraktionelle Nichtraucherinitiative) revisited the issue in late 1999, this time not seeking new legislation, but the amendment of the existing workplace ordinance (Arbeitsstättenverordnung). In contrast to a law that is generally passed by the parliament, the responsibility for passing an ordinance in Germany lies with the government, which generally needs an authorization to do so from the parliament (an enabling act). The initiative for this motion was announced in October 1999. On April 12, 2000, the draft for the revision of the workplace ordinance of 1975 was submitted with 193 deputies supporting it.<sup>369</sup> The proposal did not call for smokefree policies in the workplace, and left it up to the employer to choose the measures for “protecting” non-smoking employees. Separation of workplaces, smoking areas, or ventilation (the tobacco industry’s preferred “solution”<sup>74</sup>) were all acceptable ways to comply with the proposed amendment.

Despite the fact that, in essence, this proposal simply codified voluntary action, the Coalition against Smoking, an alliance of over 80 institutions and individuals from the health sector, published a press statement fully supporting the initiative. The tobacco industry did not oppose the proposal. The draft was discussed in six committees (Legal; Industry and Commerce; Occupation and Social Order; Health; Environment, Nature Conservation and Reactor Safety as well as Tourism) beginning in November 2000,<sup>370</sup> all committees supported it.<sup>371</sup> In the final debate and vote, only a few deputies were even present as a clear majority vote for the proposal was likely. As expected, the proposal was passed unchanged by a majority vote in the full Parliament on World No Tobacco Day, May 31, 2001.

The legislation revised the workplace ordinance of April 1975 by adding a paragraph (§3a) for “nonsmokers’ protection”:

(1) The employer has to take the requisite measures in order for the nonsmoking employees to be effectively protected from the health dangers of tobacco smoke. (2) In public workplaces, the employer only has to take the protective measures mentioned in (1) to the extent that the nature of the business and the kind of the job permit this.

(1) Der Arbeitgeber hat die erforderlichen Maßnahmen zu treffen, damit die nichtrauchenden Beschäftigten in Arbeitsstätten wirksam vor den Gesundheitsgefahren durch Tabakrauch geschützt sind. (2) In Arbeitsstätten mit Publikumsverkehr hat der Arbeitgeber Schutzmaßnahmen nach Absatz 1 nur insoweit zu treffen, als die Natur des Betriebs und die Art der Beschäftigung es zulassen.<sup>372</sup>

The federal government was also asked to have the Ministries of Health and Labor develop plans for in-house smoking cessation. Compliance with this law was to be monitored by the state factory inspectorate. If necessary, the inspectorate could direct employers to observe the new regulations and in the case of non-compliance with the order, the administrator could issue a fine.

On October 3, 2002, the revised workplace ordinance (Arbeitsstättenverordnung, originally from 1975) took effect.<sup>372</sup> While nominally creating an opportunity for employees to demand protection from secondhand smoke in the (non-hospitality) workplace, the ordinance failed to guarantee a smokefree workplace. It also placed the burden on the employees to act on their own behalf regarding an exposure to secondhand smoke without establishing a clear

obligation on the part of the government to enforce the law. As of January 2006, the German government had not established any meaningful program to promote implementation of the law, such as systematic public or employer education about the obligation to protect nonsmokers under the law. Employees can sue their employers if they do not comply with the ordinance, but given the vague specification of obligations under the law, it is doubtful that such a legal action would succeed while leaving the employee open to retaliation by the employer. The law, which the Verband views as a reasonable provision,<sup>373</sup> represents a victory for the tobacco industry because it permits the government to claim that the issue of smoking in workplaces has been addressed without requiring effective change in the status quo. On the Verband website (<http://www.vdc-berlin.de/>), the cigarette industry makes it seem as though the 2002 amendment represented a substantial progress, stating that it endorses the “improvement of nonsmokers protection through the 2002 amendment to the workplace ordinance.” Two days before the bill passed, the Verband had invited selected deputies to the Berlin “Havanna Lounge,” a cigar club, and the day before, Philip Morris had invited deputies for an information evening.<sup>374</sup> A Verband spokesperson denied a link between these two events and said that the tobacco industry could live with the amended workplace ordinance.<sup>374</sup>

## Limitations

This report is primarily based on tobacco industry documents that have been made public as a result of litigation in the United States. There is always the possibility that important information was not included in the documents that were produced. In addition, the indexing of the documents is often of low quality, especially for the German language documents, so there is the possibility that relevant documents may have been missed in our searches. Some of the events discussed here occurred many years ago, thus some primary source documents were not available and we were required to rely on secondary sources. Nevertheless, past experience has demonstrated that, despite these limitations, such research appears to give a reasonable picture of industry activities.

## Conclusion

Even though the German government’s 1974 response to a Parliamentary inquiry had stated that it would be irresponsible to wait until a rash of sick persons has fallen victim to secondhand smoke before acting to protect nonsmokers,<sup>42</sup> it never acted to provide meaningful protection. Evidence from internal tobacco industry documents demonstrates a coordinated, pervasive, and effective effort by the German tobacco industry to avoid policies and regulations that would reduce or eliminate exposure to secondhand smoke and, indirectly, reduce active smoking and cigarette consumption. Thirty years later, in 2006, there is little regulation of smoking in Germany. One of the remarkable conclusions that follow from this 30-year history is how constant and magnifying the influence of the tobacco industry has been in Germany despite the many changes in government. While each of Germany’s major political parties has held a position of power in the government since 1974 (the year of the strong governmental statement regarding secondhand smoke), none has acted adequately with regards to the relevance of secondhand smoke.

Smokefree public spaces, schools, restaurants, and shopping malls remain the exception and only a minority of German restaurants have non-smoking sections (usually sharing the same air space with the smoking sections); even fewer are smokefree. By comparison, in 1999 in the

US, 69% of the total indoor workforce was employed in smokefree workplaces, up from 47% in 1993 and just 3% in 1986.<sup>375</sup>

As the issue of smoking restrictions heated up again in the late 1980s (after the issuance of the 1986 US Surgeon General report on involuntary smoking),<sup>71</sup> a 1987 Philip Morris Munich briefing paper noted that:

the availability of non-smoking compartments on trains and other means of public transport is now a matter of course. *There is widespread consensus that a smoking ban will be introduced in most companies within the next three or five years, with the number of nonsmokers growing rapidly.* Smokers are expected to form a minority in a few years time [emphasis added].<sup>376</sup>

Even though non-smoking compartments on public transportation in Germany are indeed available and smokers are a minority, the tobacco company's central fear has not materialized. During the 1990s, the proportion of nonsmokers increased only marginally in Germany, yielding a smoking prevalence of 32.5% among adults in 2003, down from 33.5% at the beginning of the 1990s.<sup>377</sup> For comparison, in the US, the prevalence among adults was down to 23.3% in 2000 from 25.5% in the beginning of the 1990s.<sup>378</sup>

A conservative extrapolation from the US, where the estimated annual number of deaths due to secondhand smoke is 53,000,<sup>379</sup> would suggest the annual number of SHS deaths in Germany is as high as 14,000, adding up to more than 400,000 Germans killed by secondhand smoke by the time the federal government issued its first statement. The annual figure is consistent with the estimated 14,383 deaths per annum from secondhand smoke which were calculated for a recent publication by the German Cancer Research Center.<sup>380</sup> In arguing that the angloamerican approach to the calculation of mortality due to secondhand smoke which this result is based on, namely including both smokers and nonsmokers is questionable, the German Cancer Research Center however chose to publicize a calculation which is based on nonsmokers only, arriving at 3,300 annual deaths from exposure to secondhand smoke at home.<sup>380</sup>

As everywhere else in the world,<sup>260 286 262 263</sup> the tobacco industry has fought against clean indoor air laws in Germany by working to discredit and deny the accumulating scientific evidence on the dangers of secondhand smoke. Ernst Brückner, Managing Director of the Verband until 2004, recognized this success at a meeting of the Verband Board of Directors in 1991:

In practically all developed countries of the world as well as in all responsible international organisations, the question about the health hazards of smoking has been decided. *From a scientific point of view, such a damage is doubtless. The only scientific community that has held this question open is Germany.* This is not the least owing to Dr. Adlkofer [until 1995, he was a leading employee of the Verband, both Head of the Scientific Department of the Verband and the Scientific Secretary of the Research Council Smoking and Health] and due to the collaboration of industry with science. [emphasis added]

In praktisch allen entwickelten Ländern dieser Welt, sowohl bei allen zuständigen internationalen Organisationen gelte die Frage der gesundheitlichen Schädigungen durch Passivrauchen als entschieden. Unter wissenschaftlichen Aspekten sei eine solche Schädigung zweifelsfrei anzunehmen. Die einzige wissenschaftliche Gemeinde, in der diese Frage noch offen gehalten werde, sei die Bundesrepublik. Dies sei nicht zuletzt das Verdienst von Professor Adlkofer und der Zusammenarbeit unserer Industrie mit der Wissenschaft.<sup>381</sup>

By its own estimate, the tobacco industry seemed more successful in Germany than in many other countries, managing to continuously obscure and deny scientific evidence on the factual danger of secondhand smoke. Over the years, its air of scientific integrity allowed the Verband to maintain political standing and remain involved in relevant scientific and health

policy discussions. The minutes of a February 8, 2001 meeting of the Science and Industry Policy Committee (WPA) took stock of the Verband's research over the past 25 years, at which time Verband representatives expressed pleasure at their role in the smoking and health debate and stated that secondhand smoke was no longer a pressing topic in Germany:

The priority goal of attaining credibility and competence in the discussion about smoking and health has been achieved primarily by independent research. ... *The main focus of the VdC-research had shifted from the risk-assessment of passive smoking to active smoking in the past 1-2 years.* .... Dr. Heller [Adlkofer's successor as Head of the Scientific Department] emphasized that as a result of the VdC-research policies the cigarette industry in Germany still is an accepted discussant partner regarding scientific and health-policy. The efficiency of the own research is proven among other things by the fact that one can participate in shaping the scientific discussions in many domains and that the expertise on the topic smoking and health which is acquired within the VdC is being considered..[emphasis added]

Das vorrangige Ziel, Glaubwürdigkeit und Kompetenz in der Diskussion Rauchen und Gesundheit zu erlangen sei in erster Linie durch eigene Forschung erreicht worden. .... Der inhaltliche Schwerpunkt der VdC-Forschung habe sich in den letzten 1-2 Jahren von der Risikobewertung des Passivrauchens zum Aktivrauchen verlagert. ... Als Ergebnis der VdC-Forschungspolitik hielt Dr. Heller fest, dass die Cigarettenindustrie in Deutschland auf wissenschaftlicher und gesundheitspolitischer Ebene immer noch ein akzeptierter Gesprächspartner sei. Die Effizienz der eigenen Forschung zeige sich u.a. auch daran, dass man die wissenschaftliche Diskussion in zahlreichen Gebieten mitgestalten konnte und der im VdC erarbeitete Sachverstand beim Thema Rauchen und Gesundheit berücksichtigt werde.<sup>279</sup>

The challenge for public health forces in Germany is to break the cozy alliances between the tobacco industry and the German government and scientific establishment and to de-legitimize the scientific standing of the tobacco industry in Germany. In this sense, Germany lags well behind many other highly developed industrial countries such as Ireland, Norway, Australia, New Zealand, and the US.

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