



UNITED STATES SMOKELESS TOBACCO COMPANY A Real Public Health “Bandit”

The United States Smokeless Tobacco Company (UST) is the biggest smokeless tobacco company in the United States. It controls two-thirds of the moist snuff tobacco market (with leading premium brands Skoal and Copenhagen).¹

In 2003, UST asked Congress to trust them to communicate with consumers the truth about smokeless tobacco. Before granting that trust, policy makers and regulators should know the truth about UST.

Prevalence of Smokeless Tobacco Use Among Kids

Since 1970, smokeless, or spit, tobacco has gone from a product used primarily by older men to one used predominantly by young men and boys. This trend has occurred as smokeless tobacco promotions have increased dramatically and a new generation of smokeless tobacco products has hit the market. Far from being a “safe” alternative to cigarette smoking, smokeless tobacco use increases the risk of developing many health problems. Furthermore, evidence shows that adolescent boys who use smokeless tobacco products have a higher risk of becoming cigarette smokers within four years.²

In 1970, men 65 and older were almost six times as likely as those aged 18 to 24 to use spit tobacco regularly (12.7 vs. 2.2 percent). By 1991, however, young men were 50 percent more likely than the oldest men to be regular users. (8.4 vs. 5.6 percent).³ This pattern holds especially true for moist snuff, the most popular type of smokeless tobacco. From 1970 to 1991, the regular use of moist snuff by 18 to 24 year old men increased almost ten-fold, from less than one percent to 6.2 percent. Conversely, use among men 65 and older decreased by almost half, from four percent to 2.2 percent.⁴ Among all high school seniors who have ever used spit tobacco, almost three-fourths began by the ninth grade.⁵

Despite some recent declines in youth spit tobacco use, 13.4 percent of U.S. high school boys and 2.3 percent of high school girls currently use smokeless tobacco products. In some states, smokeless tobacco use among high school boys is particularly high, including Kentucky (26.7 percent), Montana (20.3 percent), Oklahoma (24.8 percent), Tennessee (22.8 percent), West Virginia (27.0 percent), and Wyoming (21.3 percent).⁶

Strategies to Hook Kids

According to internal company documents, UST developed a strategy for hooking new spit-tobacco users, meaning kids, some time ago. As one document states:

New users of smokeless tobacco -- attracted to the product for a variety of reasons -- are most likely to begin with products that are milder tasting, more flavored, and/or easier to control in the mouth. After a period of time, there is a natural progression of product switching to brands that are more full-bodied, less flavored, have more concentrated ‘tobacco taste’ than the entry brand.⁷

Following this strategy, between 1983 to 1984, UST introduced Skoal Bandits and Skoal Long Cut, designed to “graduate” new users from beginner strength to stronger, more potent products. A 1985 internal UST newsletter indicates the company’s desire to appeal to youth: “Skoal Bandits is the introductory product, and then we look towards establishing a normal graduation process.”⁸ In 1993, cherry flavoring was added to UST’s Skoal Long Cut, another starter product. A former UST sales representative revealed that “Cherry Skoal is for somebody who likes the taste of candy, if you know what I’m saying.”⁹ According to UST’s 2005 Annual Report, flavored products (that now include flavors such as apple, peach, vanilla, berry blend, and citrus blend) account for more than 11 percent of all moist snuff sales.¹⁰ UST launched “new and improved” Skoal Bandits in August 2006.¹¹

Smokeless tobacco products have been marketed to youth through a number of channels, including sporting events like auto racing and rodeos that are widely attended by kids. Although the state tobacco settlement agreements have limited UST’s ability to continue to do brand-name sponsorships of events

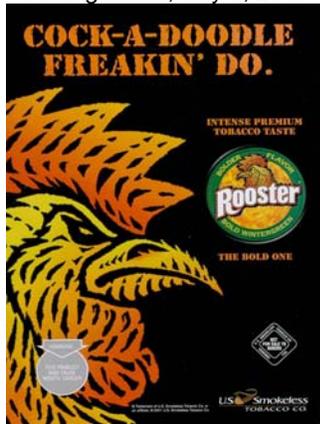
and teams, UST continues to be a promotional sponsor of both professional motorsports and rodeo and bull riding.¹² As the general manager of the College Finals said, "U.S. Tobacco is the oldest and best friend college rodeo ever had."¹³ Some cities, including Boulder and Greeley, CO, have prohibited free tobacco product giveaways, making it more difficult for UST to lure new users at these events.

Advertising Aimed At Children and Adolescents

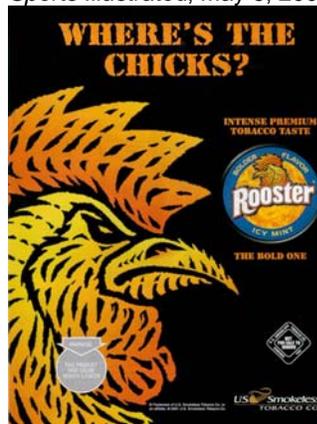
Back in 1999, UST ran a full-color advertising insert for its Rooster brand smokeless tobacco in San Diego State University's college paper, the *Daily Aztec*. The ad offered a sweepstakes for an all expenses paid trip to the Playboy mansion and, in direct violation of California law, included a \$1.00 coupon. State enforcement efforts related to the ad forced UST to pay a fine of \$150,000 and pay for a parallel ad insert opposing smokeless tobacco use.

Continuing its efforts to lure and maintain young users, in 2001, UST ran a magazine ad for its Rooster brand in *Rolling Stone* with the phrase, "Cock-A-Doodle Freakin' Do." After UST received criticism for the ad's blatant appeal to youth, it promised not to use those ads anymore. But less than a year later, ads for Rooster appeared in *Sports Illustrated*, bearing the same image as before, but with the phrases, "Where's The Chicks?," and "Birds of a Feather Party Together."

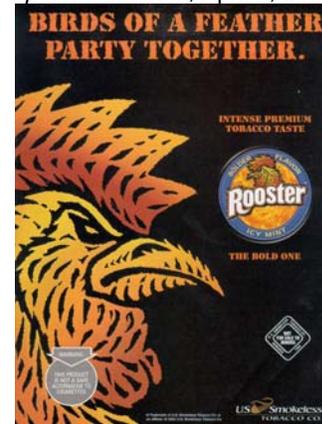
Rolling Stone, July 3, 2001



Sports Illustrated, May 6, 2002



Sports Illustrated, April 4, 2002



From 1998 to 2005 (the most recent year for which data are available), the total advertising and marketing expenditures of the top-five smokeless tobacco companies in the U.S. (Conwood Company, National Tobacco Company, Swedish Match North America, Inc., Swisher International, and UST) increased by 72.4 percent. In 2005, these smokeless tobacco companies spent more than \$250.7 million to advertise and market their products.¹⁴ Some of these funds pay for smokeless tobacco ads in magazines with high youth readership, such as *Sports Illustrated* and *Rolling Stone*.¹⁵ In fact, despite the restrictions placed on youth advertising by the Smokeless Tobacco Master Settlement Agreement, UST has continued to advertise in youth-oriented magazines. From 1997 to 2001, UST's expenditures in youth magazines increased 161 percent, from \$3.6 million to \$9.4 million.¹⁶

New Products

In August 2001, UST announced plans to market a brand new smokeless tobacco product called Revel. UST marketed the new product as a way to consume tobacco in places or situations when smoking is not allowed or is not socially acceptable.¹⁷

Within the last few years, UST has not only introduced new kid-friendly flavors for its moist snuff, such as apple, citrus blend, and vanilla, but it has also added Skoal Pouches and Skoal Bandit, which are not unlike the "snus" products. Snus are small, teabag-like pouches containing tobacco and other flavorings that users place between their upper gum and lip. Because these products do not require spitting, their use can be easily concealed.

Public health organizations and others are concerned that this new product may lure even more kids into smokeless tobacco use and addiction – both because of its novelty and the misconception that it is a safe form of tobacco use, and because it can be consumed much less conspicuously than either cigarettes or existing smokeless tobacco products at home, in school, and in other locations. There is also a concern that some current cigarette smokers who might ultimately quit because of the social stigma associated with smoking, the inconvenience caused by smoking restrictions at work and elsewhere, or a desire to protect their family and friends from secondhand smoke will switch to Revel or other smokeless products, instead.

UST Best Selling Brands Contain Higher Levels of Potent Carcinogens Than Competing Brands Despite Existing Technology To Reduce The Levels of These Harmful Substances

Smokeless tobacco contains nitrosamines - proven and potent carcinogens.¹⁸ A study by the American Health Foundation for the State of Massachusetts found that the level of cancer causing tobacco specific nitrosamines (TSNAs) in U.S. oral snuff brands were significantly higher than comparable Swedish Match brands. These data suggest that it is possible for smokeless tobacco companies to produce oral snuff with significantly lower TSNA levels.¹⁹

UST Incorrectly Uses Swedish Data To Make Its Case For Making Health Claims In the U.S.

UST points to the experience of Sweden and their use of a smokeless product called "snus", as a prime example of why smokeless tobacco is not harmful and should be promoted as a harm reduction and/or smoking cessation aid. A recent example of this view is found in the findings of a nine-member panel of public health/tobacco control experts that concluded, based on a literature review, relative to cigarette smoking, that use of low-nitrosamine smokeless tobacco (such as Swedish snus) presented a total mortality risk of nine percent and five percent for smokers ages 35 to 49 and older than 50 years, respectively. Median mortality risks relative to smoking were estimated to be two to three percent for lung cancer, 10 percent for heart disease, and 15 to 30 percent for oral cancer. In comparison with smoking, the expert panel perceived that there exists at least a 90 percent reduction in the relative risk of low nitrosamine smokeless tobacco use compared to cigarette smoking. The panel also recommended that the risks of using low nitrosamine smokeless tobacco should not be portrayed as comparable with those of smoking cigarettes.²⁰

The evidence that has been presented that argues in favor of using smokeless tobacco as a harm reducing product relative to continued smoking, when contrasted with the evidence that smokeless tobacco in various forms poses significant health risks and is not safe nor is it safer than the use of clean, medicinal forms of nicotine, is a clear reason for the need for strong and effective regulation of all tobacco products, their marketing and associated health claims, including the ability to make evidence-based, comparative health claims among all tobacco products. In the absence of such a regulatory framework, there is nothing to prevent marketing that encourages non-tobacco users from starting to do so, discourages smokers from quitting or encourages former smokers to return to tobacco use. In any of these cases, the use of smokeless tobacco would increase the risk of harm to both individuals and society as a whole. There is also nothing to prevent a tobacco company from altering the content of the smokeless tobacco product in ways that make it more toxic. In the absence of regulation, there is no evidence that smokeless tobacco as sold and marketed in the United States has reduced the harm of tobacco use to the population.

Further, consensus is lacking within the scientific community as to whether Swedish snus has, in fact, played a role in reducing smoking in Sweden, including whether the role of traditional tobacco control

^{*} At present, new tobacco products that do not make explicit health-promotion claims are not subject to any government oversight, even to the extent of other consumable products such as foods or beverages. Accordingly, the new smokeless tobacco products that do not require expectoration (including UST's Revel) will enter the market without any independent testing regarding either their inherent harmfulness or their likely impact on overall tobacco use levels or public health. To remedy this problem, the public health community has urged Congress to provide the U.S. Food and Drug Administration (FDA) with the authority it needs over tobacco products and their marketing to prevent and reduce associated harms. So far, however, the U.S. Congress has not done so.

policy efforts in Sweden are the main reason (versus the role of Swedish snus) for reductions in smoking and lung cancer rates among Swedish men.²¹

UST Insists That Smokeless Tobacco is Harmless

- Despite all the evidence of the harms of smokeless tobacco, in April 1999, a spokesperson for UST, quoted in the *Providence Journal*, claimed that it has not been "scientifically established" that smokeless tobacco is "a cause of oral cancer." The Rhode Island Attorney General subsequently filed a legal action against U.S. Tobacco for violating the multistate settlement agreement's provisions prohibiting false statements about the health effects of tobacco products. As a result, UST was required to formally acknowledge that the Surgeon General and other public health authorities have concluded that smokeless tobacco is addictive and can cause oral cancer and to pay \$15,000 to the Attorney General's office for efforts to prevent Rhode Island youths from using tobacco.
- On February 5, 2002, in a letter to the U.S. Federal Trade Commission (FTC), UST sought an advisory opinion to make statements in its advertising that smokeless tobacco products represent a "significantly reduced risk alternative as compared to cigarette smoking." Further, in the final page of their FTC submission (prior to their citations) UST concluded that, "... it is USSTC's position *that smokeless tobacco has not been shown to be a cause of any human disease* [emphasis added]."²² UST reiterated this position in its *2005 Annual Report* where it stated, "*In light of the scientific research taken as a whole, the Company does not believe that smokeless tobacco has been shown to be a cause of any human disease ...*"²³

These statements by UST – which appear to suggest that it is their corporate opinion that smokeless tobacco is a safe product, not just a "safer" or "reduced risk" product compared to smoking - combined with its expressed desire to make comparative health statements about smokeless tobacco products relative to smoking, point to the compelling need for effective regulation of all tobacco products and associated health and marketing claims.

Campaign for Tobacco-Free Kids, June 19, 2008 / Ann Boonn

¹ Chris Burritt, Bloomberg News, "With fewer smokers, Reynolds dips into the snuff," April 26, 2006, <http://www.iht.com/articles/2006/04/26/bloomberg/bxsmoke.php>.

² Tomar, S, "Is use of smokeless tobacco a risk factor for cigarette smoking? The U.S. experience," *Nicotine & Tobacco Research* 5(4):561-569, August 2003.

³ U.S. Centers for Disease Control and Prevention (CDC), "Surveillance for Selected Tobacco-Use Behaviors—United States, 1900-1994," *Morbidity and Mortality Weekly Report (MMWR)* 43(SS-03), November, 18, 1994.

⁴ CDC, "Surveillance for Selected Tobacco-Use Behaviors – United States, 1900-1994," *MMWR* 43(SS-03), November 18, 1994.

⁵ U.S. Department of Health and Human Services (HHS), *Preventing Tobacco Use Among Young People: A Report of the Surgeon General*, 1994.

⁶ CDC, "Youth Risk Behavior Surveillance—United States, 2007," *MMWR Surveillance Summaries* 57(SS-4):1-131, June 6, 2008, http://www.cdc.gov/healthyyouth/yrbs/pdf/yrbs07_mmwr.pdf.

⁷ "The Marketing of Nicotine Addiction by One Oral Snuff Manufacturer," *Tobacco Control* 4(1), Spring 1995.

⁸ "The Marketing of Nicotine Addiction by One Oral Snuff Manufacturer," *Tobacco Control* 4(1), Spring 1995.

⁹ Freedman, AM, "How a Tobacco Giant Doctors Snuff Brands to Boost Their Kick," *The Wall Street Journal*, October 26, 1994.

¹⁰ 2005 Annual Report & 2006 Proxy UST, see <http://ccbn.mobular.net/ccbn/7/1301/1391/print/print.pdf>.

¹¹ UST, "New and Improved Skoal Bandits(R) to Debut in August 2006," Press Release, March 14, 2006.

¹² UST website, accessed May 7, 2008, <http://www.ustinc.com/>.

¹³ *Rocky Mountain News*, June 22, 1996.

¹⁴ Federal Trade Commission (FTC), *Federal Trade Commission Smokeless Tobacco Report for the Years 2002-2005, 2007*, <http://www.ftc.gov/reports/tobacco/02-05smokeless0623105.pdf>.

¹⁵ Morrison, MA, et al., "Under the Radar: Smokeless Tobacco Advertising in Magazines With Substantial Youth Readership," *American Journal of Public Health (AJPH)* 98:543-548, 2008. See also, *Sports Illustrated*, July 30, 2001 and *Rolling Stone*, July 5, 2001.

¹⁶ Massachusetts Department of Public Health, *Smokeless Tobacco Advertising Expenditures Before and After the Smokeless Tobacco Master Settlement Agreement: A Report of the Massachusetts Department of Public Health*, May 2002, <http://tobaccofreekids.org/pressoffice/release503/smokeless.pdf>.

¹⁷ UST press release, 'U.S. Tobacco Introduces 'Revel', A New Anytime, Anywhere Tobacco Brand,' August 1, 2001.

¹⁸ S.T.O.P. Guide, 1997; Hatsukami, D. & H Severson, *Nicotine and Tobacco Research*, 1999.

¹⁹ Brunnemann KD, et al., "Aging of Oral Moist Snuff and the Yields of Tobacco -Specific N-Nitrosamines." American Health Foundation, Massachusetts Tobacco Control Program, June 22, 2001.

²⁰ Levy DT et al, "The Relative Risks of a Low Nitrosamine Smokeless Tobacco Product Compared With Smoking Cigarettes: Estimates of a Panel of Experts," *Cancer Epidemiology Biomarkers & Prevention*, Vol. 13, 2035-2042, December 2004.

²¹ Henningfield JE, Fagerstrom, KO. "Swedish Match Company, Swedish snus and public health: a harm reduction experiment in progress?" *Tobacco Control* 2001;10:253-257; Tomar SL et al, "Declining smoking in Sweden: is Swedish Match getting the credit for Swedish tobacco control's efforts?", *Tobacco Control* 2003: 12:368-371.

²² Letter to Secretary Donald S. Clark, U.S. Federal Trade Commission, dated February 5, 2002, from Daniel C. Schwartz, Partner, Bryan Cave LLP.

²³ UST website (accessed May 8, 2006), *2005 Annual Report & 2006 Proxy UST*, see <http://ccbn.mobular.net/ccbn/7/1301/1391/print/print.pdf>.