



# Brand Abuse

## Tom Blackett

The IDI William H Walsh Commemorative Lecture | 2010

“ It seems that everything’s a brand these days: political parties; sports teams; popular movements; religions; even individuals.

Now I don’t disagree with most of these: here the word ‘brand’ is used to denote a sort of collective activity or point of view or ideology. But I do take exception to individuals.

I want to make it absolutely clear that individuals are not brands; if they have achieved a measure of fame that lifts them above the pack then they become celebrities because, as the word implies, they have become celebrated for something.

The idea that individuals are brands is a weird inversion – life imitating art. Because brands are essentially artificial constructs – art imitating life. ”

On Friday the fifth of November 2010 Tom Blckett delivered the Institute of Designers in Ireland William H Walsh Commemorative Lecture at Chartered Accountants Ireland in Dublin. There follows a full transcript of his lecture.

Good morning, ladies and gentlemen,

I must say that this is a bit of a 'first' for me. I've never spoken quite this early in the morning before, and it's a strange feeling rising to my feet without a glass of something fortifying at my elbow!

Ah well, we all have to adapt. I was reading the obituary of Viktor Chernomyrdin, the former Russian prime minister, yesterday. Apparently he was famed for – and I quote: "inarticulate, mumbling speeches, said to be due to the fact that a taboo on swearing in public deprived him of 30 per cent of his normal vocabulary."

As Martin will tell you, I'm a great rowing fan. Every week I take to the water with a group of old boys, at London Rowing Club. The average age is around 65, so I'm a youngster. Our oldest member is a chap called Robbie van Mesdag, and Robbie is 80.

Now that name might be familiar to one or two of you here. Robbie was President of Trinity College Dublin Boat Club for many years and apart from his other achievements, he rowed for Holland in the 1952 Olympics. Now I mention this not just to brag, but because several of my friends were at university here, and I had the very dubious pleasure of sharing a flat in London with them, back in the early 1970s.

None of this has anything to do with the subject of my talk this morning, which is 'Brand Abuse'. And I realize of course that it's completely unclear whether I mean abuse of brands or abuse by brands. And to be honest with you, at the time of writing I wasn't sure myself.

In fact I'm still not sure, so I'm going to talk about both – and also a little about a favourite hobbyhorse of mine: abuse of the brand word.

## Let's start with abuse by brands: abuse of their customers, their shareholders and their supporters: their 'stakeholders'.

I'm going to do a little straw poll. Please put your hands up if you've ever bought a branded product or service and have felt thoroughly let down at the result.

And for those who felt let down, put your hands up if you ever bought that brand again.

That's what the great Dr. Johnson called "A triumph of hope over experience".

Well, you're not alone. Just about everyone has been let down by a reputable brand at some point in their lives – whether it's a cancelled flight or a failed holiday firm, or a fly in the soup at your favourite restaurant, or a vital part missing from your Ikea chest of drawers.

Or when the England football team just totally fails to show up at the World Cup finals.

It's part of the human condition to expect – and cope with – disappointment in life. But don't we all feel that much more affronted when a favourite brand lets us down? It's like being betrayed by a close friend.

But of course it's doubly bad if it puts your job on the line. Think of the poor, honest folk – there must have been some – who worked at Enron, a business with a totally fictitious balance sheet and a set of accounts signed off by mighty Arthur Andersen.

Arthur Andersen went down shortly after Enron, taking thousands of jobs with it. It was one of the most respected names in the business world, but its reputation just couldn't cope with being found guilty of criminal charges in relation to their auditing of the company.

And their consulting side: formerly known as Andersen Consulting? They'd changed their name the previous year to Accenture. They had to, because of rules about separating accountancy practices from their consultancy cousins. They must have been thanking their lucky stars. Until, that is, they hired Tiger Woods – and I'll come back to Tiger later.

Here's some more abuser-brands.

Do you remember Toyota's brake failures last year? That particular saga seemed to drag on forever. At one point Toyota's share price dropped 20% and the Chairman apologized publicly for this and the product problems.

Then there were Apple Mac's exploding batteries and BA's Terminal Five fiasco.

Well, you could say that some of these examples are just 'peradventure' – bad luck. Others are good old-fashioned cock-ups. And others are sheer criminality, designed to swindle shareholders. But there are also examples of long-term, systematic abuse by brand owners where they deliberately exploit customer goodwill and trust.

What I'm referring to here is this thing called 'skimming', where brand owners quite deliberately reduce the size of the chocolate bar – not so you'd notice, mind, but enough to bring down the cost of manufacturing – while keeping the price to the same.

And it's where the distiller reduces the alcoholic strength of their product from 40% 'alcohol by volume' (ABV) to 37.5%, again keeping the price unchanged. This takes them into a lower excise bracket and they can cream off the extra margin. "They won't notice", they say; but they do. Consumers aren't fools – they know when they're being ripped off, and their regard for the brands concerned diminishes.

And while we're on the subject of abuser brands, you're all waiting for me to mention another well-known airline, aren't you? Well, I won't – not by name, anyway – I want to get out of here alive. The fact that this particular airline is one of the biggest European carriers and is a very successful business means that they must be doing something right. OK, so their charging system is pretty opaque, and customer care – by their own admission and by their own actions – is not very high on their agenda; but customers come back for more.

Perhaps it's all to do with expectations: regular passengers probably don't have many so they're not really disappointed. It's the first-timers who complain most bitterly because despite all the negative publicity this airline has received, they're deluded enough to think that they'll be treated with a modicum of respect.

And it has to be said that the Chief Executive of this particular airline is quite brilliant at playing the pantomime demon. He must revel in all those rumours about charging you to use the loo and about standing seats – although nobody has said yet that they'll be putting standing seats in the loo, which would be taking customer unfriendliness to new heights.

Apparently, the said Chief Executive arrived at a hotel in Dublin and went to the bar and asked for a pint of Guinness.

The barman nodded and said, "That will be one Euro please, Mr. O'Leary."

Somewhat taken aback, O'Leary replied, "That's a very competitive price." And handed over his money.

"Will you be wanting a glass with that?" enquired the barman.

And while we're on the subject of airlines and their attitude towards passengers, do you remember Sabena, the Belgian carrier now mercifully dispatched to that great hangar in the sky? The joke used to be that Sabena stood for "Simply Awful Bloody Experience. Never Again!"

You'll have noticed that I haven't mentioned BP yet. Has BP been guilty of brand abuse? I don't know. President Obama seems to think that a company called British Petroleum has, and so does the green lobby.

There's been much talk about how the cost cutting and outsourcing that went on under John Browne, the last chief executive but one, had a negative effect on safety and that this caused of the Deepwater Horizon disaster and others. And I read the other day that BP has been fined 760 times by the US's Occupational Safety and Health Administration for safety violations. In contrast, Sunoco and Conoco-Phillips, who are both leading US oil companies have eight citations each, and Exxon Mobil has only been fined once.

I've also read, in mitigation of BP that they don't have the cosy relationship with the Feds that the other big US companies do. But a disaster is a disaster, and the BP brand's been very badly damaged. It wasn't deliberate, it wasn't cynical: BP acted decisively to stop the flow – and honourably to compensate those who were affected. But criminal charges may follow if negligence is proved.

(And if you'd like to read some more about the damage that's been done to the BP brand then I recommend you get a copy of the latest 'Journal of Brand Management'. There's an interesting article there by Professor John Balmer, of Brunel University).

Now I want to talk about abuse of brands.  
Abuse by whom, you ask. Well the supermarkets of course.

It wasn't so very long ago that the brand manufacturers believed they had a divine right to monopolise the consumer relationship. What they completely overlooked is that consumers are retail customers, and that no matter how extensively the brand manufacturers advertised and promoted their products this is essentially a monologue: it's the retailers who conduct the dialogue, and it's the retailers who own the relationship.

Cue private label.

Depending on whom you asked in the old days, private label was either a great boon to hard-pressed shoppers, or an act of larceny.

But private label – which was once just a cheap alternative to manufacturers' brands – now offers real choice to consumers, and attractive margins for the retailer. And I think that even the brand manufacturers acknowledge nowadays that private label is a dangerous but quite legitimate competitor.

Retailers like Sainsbury's led the private label charge in the United Kingdom. They introduced their own brand versions of products across a wide range of categories. This activity grew to a point, in the early 1990s, when Sainsbury own-label products represented over 60% of all the products their stores carried. Enough, said the consumer, rather than improving choice you're reducing this. It's all getting a bit boring.

And it's true that in their drive to ramp up private label sales the supermarkets de-listed many smaller brand manufacturers. To survive, these manufacturers turned to supplying the supermarkets with private labels, transferring much of the margin they would have made to the retailer, but reducing substantially their marketing costs. So it's an ill wind that blows nobody some good.

Well, private label's here to stay. I'm told that market share in Europe is as much as 40–50% of total sales, and in Switzerland it's 55% (no comments about 'boring' please). In the US and Canada it's around 22% and growing; and in Latin America it's around 10%. In Asia, it's just 3% of sales but large retailers like Carrefour and Tesco are entering the region and this is likely to push it higher.

And the supermarkets are taking private label marketing very seriously indeed. There was a report the other day that the UK's Asda plans to spend around 130 million Euros on its 'Chosen by You' label. They're re-designing the packaging across the range and introducing some 500 new products. The reason for this is that half of all Asda's sales are own brand, and 85% of those sales come from 'Chosen by You'.

Asda used more than 200,000 individual blind taste tests, plus input from a consumer panel made up of their customers, to re-shape the range. Now this degree of dedication to product development probably exceeds what you'd expect from a brand manufacturer. It just shows you how the world's changed.

Now, you probably think I'm letting the supermarkets off lightly, so let me redress the balance a little bit by telling you a true story.

I worked for Interbrand for many years, and one of the things Interbrand became really well known for was developing brand names for new products – Hob.nobs, Prozac, Mondeo, and the like. We got a call from a very well known supermarket one day and I went down to their offices to discuss the brief. They wanted us to come up with a brand name for their version of Kit-Kat.

They'd been trying to get Rowntree's, which owned Kit-Kat in those days, to supply them with unbranded Kit-Kat, which they could put in their wrapper and sell as private label. (It's the two-finger version I'm talking about.) Well Rowntree's gave them two fingers, arguing that so unique was their product format that consumers would instantly recognize it as Kit-Kat and they'd be giving their brand away.

So they found a Belgian biscuit manufacturer that could make a similar product and, in order to punish Rowntree's, they signed them up. Their brief to us was to come up with a name that was as close to 'Kit-Kat' as the law would allow. I said I was terribly sorry, but that was not the business we were in, but if they wanted to mimic 'Kit-Kat' why didn't they call it 'Copy-Cat' – and they could have that piece of advice for free.

For a moment I think they took me seriously. But we eventually agreed a sensible brief and you can now buy this product in all their stores.

Well, we came away from that project smugly thinking that we'd won a moral victory – as well as a half-decent fee. What we hadn't realized at the time was that what we'd narrowly avoided was about to explode into one of the biggest rows in marketing in the 1990s.

I'm talking about the 'Lookalike Wars': the big supermarkets imitating aspects of the manufacturers' branding – but doing it in such a way that they fell just on the right side of the law. Most of the time.

They were all up to it: Sainsbury's, Tesco, Asda, etc; and the brand manufacturers boiled with, largely impotent, rage. It placed the manufacturers in a very difficult position: they could rage in private, but how to confront the mighty buyers at Sainsbury's and Tesco?

I remember being in Belfast around this time, speaking at a marketing society get-together. One of the other speakers was Michael Perry who was then the chief executive of Unilever, a big client of ours. Mike put it very succinctly when he said "I don't mind sharing the table with my competitors, but I won't have them eating off my plate".

Well it all got more or less sorted out in the end, with codes of conduct and gentlemen's agreements and so on. But for a while it was poisonous, and the only people who benefited were the tabloid press who banged on about the over-weening power of the supermarkets and how they were abusing this – probably true – and how they, the red-tops, stuck up for the manufacturers (who incidentally were major advertisers).

To my knowledge, only one lookalike case ever made it to court, and this was United Biscuits versus Asda, in 1997.

Asda had introduced its own version of the famous Penguin (what is it about chocolate biscuits?). They called it 'Puffin' and designed a wrapper that closely resembled Penguin's. United Biscuits asked Asda to please stop, as Puffin was confusingly similar to Penguin – you have to remember that Asda was also a major buyer of United Biscuits' products, so softly softly was the required approach. Asda refused. Discussions continued at ever-more senior levels in the two organizations. Still no joy for United Biscuits.

So our scene now shifts to the High Court with United Biscuits challenging Asda on two main grounds. The first was that Asda was seeking through its very similar packaging to pass off the Puffin biscuit as a Penguin. And the second was that the use of the name Puffin and a picture of a bird infringed a number of Penguin trademarks.

After a seven-day hearing the judge, Mr Justice Walker, found in favour of United Biscuits on the issue of passing off, but not on trademark infringement, allowing Asda to continue using the name. He felt that Puffins and Penguins were very different birds and accordingly were, quite literally, poles apart. This despite Asda's representative insisting under cross-examination that they hadn't set out deliberately to choose a name that imitated 'Penguin' – despite going for something that began with 'P' and ended with 'N'.

Rather confusingly, the makers of Penguin and Puffin both claimed victory. Asda's press release trumpeted 'Puffins rule the roost in High Court battle' while United Biscuits responded with the rather more sober 'UB wins passing off action'.

The press, of course, had a field day. 'Penguin gives Puffin a stuffing' bellowed the Sun. 'Asda and UB register a score draw over Penguins and Puffins' said the Guardian. And the appearance of a stuffed Penguin and Puffin outside the High Court on the day of judgment in an Asda publicity stunt would suggest that they might not be treating the issue with due seriousness.

But there is a serious side to this. United Biscuits had to wait six months to get a deceptive lookalike removed from the shelves, spend significant amounts of time and money bringing the case to court, and contend with a level of press coverage for its rival that marketeers can only dream about when launching a new product – quite apart from the deterioration that must have come about in its relationship with Asda. A bit of a pyrrhic victory.

An altogether more insidious form of brand abuse is counterfeiting. Some people think it's quite fun to pick up a fake Rolex or Louis Vuitton bag. Nobody deludes themselves that they've got the real thing, and my theory is that the people who buy cheesy counterfeits are closet anarchists: this is their way of cocking a snook at society, capitalism, and the rule of law, etc.

But counterfeiting comes at a cost – to jobs, company sales and profits, and sometimes life and limb. It certainly has an economic impact as it's estimated that counterfeiting accounts for 5–7% of world trade, and is worth around \$600 billion a year.

Yet I was staggered to read the other day about a EU-funded report that has declared that it's OK to buy fake designer goods. This report, which is co-written by a UK Home Office advisor (and therefore at the expense of the tax payer), says that consumers benefit from the market for knock-off designer goods at knockdown prices. It also rejects the complaints of designer companies, claiming that losses to the industry as a result of counterfeiting are vastly exaggerated – because most of those who buy fakes would never pay for the real thing.

Professor David Wall, who co-authored the report and advises the UK Government on crime, said that the real cost to the fashion industry from counterfeiting could be one-fifth of the previously-calculated amount, and suggests there's also evidence that it actually helps the brands by quickening the fashion cycle and raising brand awareness. He disputes claims that the counterfeiting of luxury brands is funding terrorism and organized crime, and argues that there's little public appetite for tough law enforcement as consumers enjoy knockoffs.

Radical stuff.

What the professor didn't mention is that counterfeit goods are often produced by women and children, pressed into labour and ruthlessly exploited in appalling conditions. This is where it all gets very nasty. But he does say that the Government should be focusing on the trade in counterfeit drugs, dodgy aircraft parts and other stuff that really causes public harm, and here I absolutely agree with him.

Now, thanks to increased media coverage, more and more consumers are beginning to appreciate that there's a dark side to counterfeiting. Some companies now run campaigns, taking the message directly to the public. One of these is Pfizer.

Pfizer's 'Men at Work' campaign features a mock counterfeit factory in which fake medicines are manufactured in a cement mixer. The campaign also includes a hard-hitting cinema ad in which a man coughs up a rat, to warn about the dangers of buying pharmaceuticals over the Internet and show that forgeries may contain unspeakable ingredients. (If you're interested, you can see this on [www.realdanger.co.uk](http://www.realdanger.co.uk).)

Imperial Tobacco – these are the guys who make John Players Specials, Golden Virginia tobacco and Rizla rolling papers – is giving the European Union 250 million Euros to stop cigarette smuggling. This follows a similar deal involving British American Tobacco, which gave around 175 million. However, both companies will face penalties if the action doesn't stem the flow of illegal products carrying their brand names.

The reason for this is because the EU reckons it loses around 10 billion Euros a year in tax revenues on cigarettes – around 10% of its total budget. And the bulk of the cigarettes being smuggled into EU countries are counterfeits, many of them believed to originate from China; this has been a considerable source of income for criminal gangs and helped fuel the Balkan wars.

All national authorities target those who trade in fake goods, but did you know that in some countries you could face prosecution if you buy counterfeits? During a crackdown in Italy this summer, a tourist was fined 1,000 euros for buying a fake Louis Vuitton bag for seven euros at a resort near Venice. Holidaymakers also face having counterfeit purchases seized at ports and airports as they return to Britain, if they're detected by the UK Border Agency.

**'Leave 'em laughing' is a sound piece of music hall advice. So now I'll pass on to my own particular bugbear, abuse – misuse – of the word brand.**

It seems that everything's a brand these days: political parties; sports teams; popular movements; religions; even individuals. Now I don't disagree with most of these: here the word 'brand' is used to denote a sort of collective activity or point of view or ideology. But I do take exception to individuals.

I want to make it absolutely clear that individuals are not brands; if they've achieved a measure of fame that lifts them above the pack then they become celebrities because, as the word implies, they have become celebrated for something. The idea that individuals are brands is a weird inversion – life imitating art – because brands are essentially artificial constructs – art imitating life.

And it's a fundamental requirement of good management that brands should be managed in a consistent way because that's what consumers expect. High profile individuals, by definition, are rarely consistent. Look at Tiger Woods: yes, on the golf course he was a pretty consistent performer, but his private life was wildly inconsistent with the image that had been so carefully tailored for him.

Well what about David Beckham, you ask?

David Beckham the man is not a brand. But David Beckham the name is. He's successfully built up a range of lifestyle products on the back of his reputation. Similarly, Henry J Heinz the man wasn't a brand, but his name is – and it's carried on successfully for many years since his death. Perhaps this is the ultimate test: the ability of the brand to outlive its creator.

The reason the 'brand word' has spilled over into the area of celebrities is largely laziness by journalists. Nearly thirty years ago we decided to write a book about branding and I went off to the Institute of Grocery Distribution to search for material in their library. Would you believe that I could find very few references to the words 'brand' or 'branding'? Nowadays the use of the word has exploded, and the other day, God help me, I found a reference to 'Brand Rooney'.

Now that is taking it a bit far.

### There's another area of brand abuse that I haven't mentioned, and that's brand self-abuse.

This is either where a brand promises one thing and delivers another, or just makes itself so obscure that people fail to understand it and don't engage.

I mean, can anyone here tell me what the Sony brand is about? I've only the faintest notion. Once it used to be about the Walkman – and I was stunned to read that Sony has announced that it's no longer going to produce the Walkman personal cassette in Japan. I thought they'd given up making these things years ago! That's the problem with technology companies; they're driven by innovation yet sometimes they come up with so many products, and product modifications, and product variants, that they lose touch with their core purpose, their reason for being – which is genuine innovation. And I think that this is where Sony has gone wrong.

Some do get it right though. Apple built up its brand and its loyal following through deliberately practising simplicity. Apple continually breaks new ground in designing computer lines we're all familiar with – things that are not only attractive, but also accessible and very user-friendly. And as they expanded the brand into new areas, simple, elegant, accessible design was the driving force, and this was led by Steve Jobs' unwavering commitment to this ethic.

Apple's voice reflects the personality and values of Steve Jobs – brash, exuberant, irreverent. It's crystal clear, speaking for everyone who works for the company, buys its products, or identifies with its values.

They don't just talk about simplicity; they live and practise it.

And then there's the Dutch multi-national Philips.

In 2001, Philips brought in a new CEO, Gerard Kleisterlee, and he quickly made it clear that he wanted to change the company in a fundamental way. His management team got together and bandied about ideas for a relevant, competitive positioning that would both unite and distinguish a company that made products as diverse as food fryers and Magnetic Resonance Imaging machines.

During this process a comment was made in jest by one of Philips's executives: "A day when everything was simple at Philips – that would be a point of difference". Well, this became a rallying cry – and because it was so far from reality at the time, it was a source of both inspiration and anxiety. Up until that point, most of Philips' employees had made careers out of mastering complexity.

The response to this has been multifaceted, widespread and ongoing. Philips is systematically transforming, redesigning, renaming, and discarding products, processes, and procedures throughout the organization.

Recruiting a new employee used to take two months – now it has to be done in a week. PowerPoint presentations would ramble on for hours – now the limit is ten slides. Thirteen divisions have been reduced to five, and financial reports have been eliminated, redefined, and reformatted to make them useful and actionable.

Even the naming of products has been improved. Names are now evocative yet descriptive, which is clearly a rejection of technology's reliance on meaningless numbers. New products carry names like 'The Wand', 'Illusion System', 'Flex Shade' and 'Momento'.

And is there anyone who likes a remote control with dozens of buttons? In Philips' world of simplicity, that's gone. It's been replaced by a wand that only has one button, yet it controls sound, channels, and sources for a flat-screen TV that looks like a frameless mirror hanging on the wall.

Philips is truly committed to simplicity because it realizes that it's in the business of selling people benefits and solutions to lifestyle needs and wants. Technology is a means to this end, but certainly not an end in itself.

And simplicity lies at the heart of what we, at Siegel+Gale, do.

So, ladies and gentlemen: keep it simple; respect your customers and honour your business partners; accept that we're living in a difficult, changing world – but remember that brands still hold the key to stability and growth, as long as you keep the pact with all your stakeholders.

Oh, and the best of luck against the Springboks tomorrow – give 'em a good thumping!

Now I'd be happy to take questions. But no abuse, please.

#### TOM BLACKETT

After 25 years in brand consultancy as Deputy Chairman of Interbrand, the global branding agency, Tom Blackett is now a brand consultant and non-executive chairman of Siegel+Gale London, part of the Omnicom Group. "There are few people in the world that have his depth of experience in brand matters" said Alan Siegel, Chairman and Founder of Siegel+Gale.

Tom's thought leadership and expertise are visible in the books he has published, the conferences he has spoken at, and in the High Court, where he is a highly regarded expert witness in disputes involving brands.

#### BFK

BFK are a Dublin-based brand communications company. We helped organise and promote this lecture as part of Design Week 2010.

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