

# News analysis

## Hong Kong: Marlboro tries it on (the pack)

Whenever a government announces tobacco control measures which tobacco companies suspect will be effective, the companies' first reaction, at least in private, is to work out ways of getting round them. Under self regulation, they implement whatever schemes they think will most completely negate the measures they have just agreed to, and continue for as long as they can get away with it. It costs nothing to make a grovelling apology, after all; and in extreme cases, it can be delivered with an air of bewilderment that the breach—an isolated lapse whose local perpetrator has been severely reprimanded—could ever have been allowed to happen in the first place.

Under legislation too, something similar is seen; they simply try it on, starting with a small tester, working up through repeated violations, until finally the breaches of the letter or the spirit of the law become so outrageous that they risk hitting the buffers of enforcement—legal sanctions that actually hurt. The ideal is to cruise along just this side of enforcement, which in many countries is all too easy to do, either because of the effort required to go to court with a prosecution, or because of the equally tiresome effort of tightening up the legislation.

In Hong Kong, China, with a near total ban on tobacco promotion, Philip Morris must have noticed that the detailed regulations specifying what has to appear on a cigarette pack had omitted to specify all the things that the government must have intended should *not* appear. All those positive images linking Hong Kong's biggest preventable cause of premature death with macho cowboys, for example, whose banishment was the whole point of the ad ban. So it was perhaps no surprise that early this year, a range of Marlboro packs hit the streets of Hong Kong that were nothing less

than pocket sized mini-billboards. Apart from the health warning, each large face was largely covered in images of that universal symbol of independence who shores up the morale of PM's nicotine captives.

Reports from Hong Kong suggest this was a classic trial run. Will they get away with it? They did that time, it seems. Will they be back? And if they can get away with it in Hong Kong, will they try it elsewhere? Make sure your legislation is tightly drafted, then sit back and watch this space.

## Italy: court's expert panel condemns tobacco

Stalteri vs. Monopoli di Stato is the first tobacco product liability case filed in Italy (in 1994) and the second one in Europe. On 13 March 2002 a panel ad hoc appointed by the Civil Court of Appeal in Rome released its expert witness opinion on specific causation, concerning the case of the late Mario Stalteri, a pack-a-day smoker who quit smoking in 1987, four years before the manufacturer issued the current version of warnings. Given the

circumstances—occupation (teacher), genetic background, living conditions—the panel concluded that the disease was at least 80% attributable to smoking.

Building on the traditional approach to toxic torts, the panel tried to find the fingerprint of carcinogens of tobacco smoke. According to the best forensic evidence, these can now be found in the genes of the victim, contained in the victim's cells collected and preserved at the time of hospital administration. More specifically, recent scientific literature suggests that there are different genetic mutations of p53 and K-ras genes in smokers, vis-à-vis non-smokers. This might have interesting implications in the field of mass torts, tobacco as well as non-tobacco related.

The most frequent mutation affecting smokers or former smokers concerns codons 12 and 13 of K-ras, with the first nucleotides of codon 12 mostly affected (65%) in smokers who develop adenocarcinoma to the lung. That mutation was found in the case of the late Mario Stalteri. The three person expert panel concluded therefore that "a serious and reasonable criterion of probabilistic evidence confirms that smoking has been a



Images on packs of Marlboro sold in Hong Kong: "pocket sized mini-billboards".

All articles written by David Simpson unless otherwise attributed. Ideas and items for News Analysis should be sent to David Simpson at the address given on the inside front cover.

sufficient and adequate causation of the specific cancer”.

The next procedural step will be the decree by which the Court of Appeal will accept or reject the evidence submitted by the panel. In the Italian legal system the latter event is rare.

MARCELLO STALTERI

*Università di Firenze, 50100 Firenze, Italy*

CARLO LA VECCHIA

*Istituto di Statistica Medica e Biometria,  
Università degli Studi di Milano, 20133  
Milano, Italy*

SILVIO GARATTINI

*Istituto di Ricerche Farmacologiche “Mario  
Negri”, 20157 Milano, Italy*

## PM: “We agree that our brands cause lung cancer in smokers”

Following an article I published in an Australian newspaper in April, I received a letter from Philip Morris Australia’s spin king Thomas Dubois, scolding me for not drawing readers’ attentions to the company’s latest website position on disease causation and smoking. I replied: “Many of my colleagues understand the message on your website to mean that Philip Morris agrees with the fact that there is overwhelming consensus in the medical and scientific community that cigarette smoking causes lung cancer and other diseases. However, we believe that this is no different to (for example) the backpacker serial killer Ivan Milat saying, with hand on his heart, that he agrees that there exists an overwhelming consensus of evidence that he killed seven young people. This of course does not preclude him continuing to say, ‘I am innocent of murder’. All he’s doing is acknowledging that this consensus exists, just as PM is acknowledging the consensus about smoking and health among scientists.

“So, to cut to the chase, without recourse to the shelter provided by your company’s frankly robotic ‘desire for a single, consistent public health message’ (you’re all told to put this in these sort of letters, right?) would you please answer “yes” or “no” to the following question: ‘Does Philip Morris agree that cigarettes manufactured and sold by Philip Morris cause lung cancer in many of those who smoke them?’”

Back came his reply: “In response to your e-mail dated May 2, our answer is

as follows: ‘Yes, we agree that smoking cigarettes, including our brands, causes lung cancer and other serious diseases in smokers.’”

This seems to be yet another layer of the onion that has been removed from the game that British American Tobacco’s Australian chairman in 1997 once described as “a charade”. So what does it mean? Philip Morris and all tobacco companies continue to dispute each and every litigant’s claim on just that: that smoking their company’s brands caused lung cancer or other serious diseases in a particular smoker. Yes, they agree smoking their brands can cause cancer in smokers . . . it’s just that they’ve never found a single instance where they agreed that this ever occurred! Plus ça change, plus c’est la même chose.

SIMON CHAPMAN

*Editor, Tobacco Control*

## Europe: Rodin’s non-thinker

Just like CASIN (see “The Circumlocution Hall of Fame” below), the Belgian Rodin Foundation, whose strapline is “Analysing and taking action”, has been contacting health agencies active in tobacco control as if it had no connections with the tobacco industry. Its unctuous approaches even included a disarming if coy plea for us to make allowances for the institutional equivalent of the innocence of youth. In a letter sent to several organisations in Europe, the following explanation was provided. “We are a very young organisation and our activities have just started. We are based in Brussels and are funded by public and private funds.” In fact the Rodin Foundation has a contract with the tobacco manufacturers in the Belgian market and will receive 1.85 million Euros (US\$1.75 million) annually over five years. Any hint of this funding was strikingly absent in the letter. The foundation says it is in favour of the more “gentle” approach to tobacco control. As it stated: “Current responses are of types such as prohibition, stigmatisation of users and those around them, control measures, penalties, social exclusion, etc, while measures of assistance, support, assumption of responsibility, treatment and rehabilitation, as much as they do exist, receive much less and increasingly piecemeal attention and resources.” Any resemblance to the “responsible” Philip Morris approach is, well, not entirely coincidental.

The Rodin letter continued: “For the time being, we are creating a database on all national and international prevention projects, more specifically primary prevention and especially tobacco prevention among youngsters. The purpose of this scientific research is to give scientific support to other organisations and federate [sic] initiatives that fall within the scope of its objectives and raise awareness among politicians.” Slight overuse of the word “scientific” there, one might think, presumably dictated by the urgent need to win the confidence of the letter’s recipients that their replies would be handled in a way that was at once responsible and beneficial to mankind. No prizes for predicting that the science would be carried out according to the tobacco industry’s standards, and that the principal activities may closely resemble the well known and totally inefficient youth prevention campaigns favoured by the big tobacco pushers.

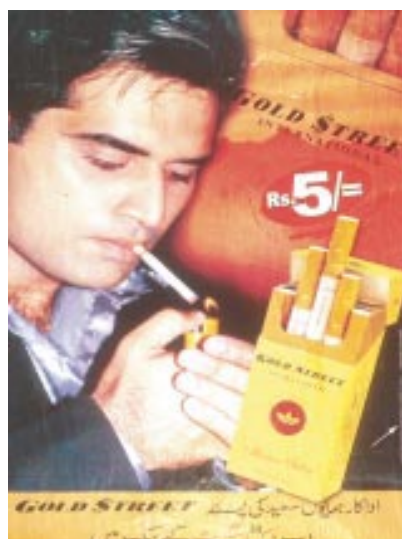
## South Asia: the party goes on

As we know, international tobacco companies are hard at work to reinvent their images, particularly in the west where people increasingly disapprove of their activities. At the same time, as we also know, their behaviour in the new markets of the developing world has not changed one iota, except perhaps to intensify with each passing month.

Pakistan has already been suffering a sustained onslaught of tobacco promotion clearly aimed at youth for many years (see *Tobacco Control* 2001;10:93–4 and *Tobacco Control* 2000;9:361, for examples). Have the international tobacco companies toned down their marketing recently, in line with the new sense of corporate responsibility they claim? Did they, as perhaps only a hopeless idealist might wonder, think it better corporate ethics to reduce their barrage of positive images for cigarettes in view of the nail biting, nuclear clouded tension over Pakistan’s dispute with neighbouring India over Kashmir, or its struggle to house refugees fleeing from war torn Afghanistan? Of course we know the answer: absolutely no change at all.

Increasingly, as in other parts of the region, tobacco companies are reaching Pakistan’s adolescents via their heroes. Take Said, for example, a tall, handsome television and film actor, adored by girls and sure to pull a crowd—a very young crowd—





BAT has enlisted TV star Said to promote its Gold Street brand in Pakistan.

wherever he goes. He is known to millions through his starring role in one of the country's most popular television drama series. What a catch, then, for British American Tobacco (BAT), whose Gold Street cigarettes he has been helping to promote. Interestingly, the brand bears a remarkable resemblance to the colours and design of the company's Benson & Hedges brand, using the same gold background together with a similar font for the name. And in keeping with the international companies' use of western references to present an upmarket



Philip Morris ads for its Red and White brand, which appeared in the Pakistan sports journal *The Cricketer*—a popular magazine for teenage boys.



Marlboro promotional campaign advertisements in Sri Lanka, in which entrants could win a classic American car.

image, everything on a Gold Street pack is in English—except for the Urdu health warning.

Not to be outdone, Red and White brand, made by a Philip Morris subsidiary, has run ads featuring a veritable Alladin's cave of desirable consumer goods to tempt the would-be upwardly mobile—a sleek BMW sports car, ultra slim laptop computers and mobile telephones, as well as the ubiquitous cigarette lighters—all to be won in a promotion in February. Ads appeared in journals such as *The Cricketer*, which covers the country's most popular sport, whose most ardent fans are teenage boys. No doubt Philip Morris would say that it was only targeting “young adults” who are, of course, fully informed about the risks of smoking. They could even point to the health warnings on the promotional ads, situated in the bottom left-hand corner of the ad shown here. Even in the original, it is so small as to be almost illegible.

Later in the year, to capitalise on World Cup soccer fever, Diplomat brand, also from Philip Morris, linked itself to the familiar range of toys for boys. In addition, for the three luckiest winners, there was a whole kilogram of gold, not just your regular ingot, but a model of the World Cup soccer

stadium, cheekily embossed with the brand's name, though executed, like the concept of the promotion, with scant regard for taste.

Elsewhere in South Asia, too, the high tide of tobacco advertising has shown no signs of receding. In Sri Lanka, Philip Morris used a new trick in this region, attempting to exploit some of the most familiar, Hollywood friendly icons of grass roots American culture. In a colourful Marlboro promotion, entrants stood to win one of five classic American cars, an original Wurlitzer jukebox, the ubiquitous travel bag, or a “classic American” Zippo lighter.

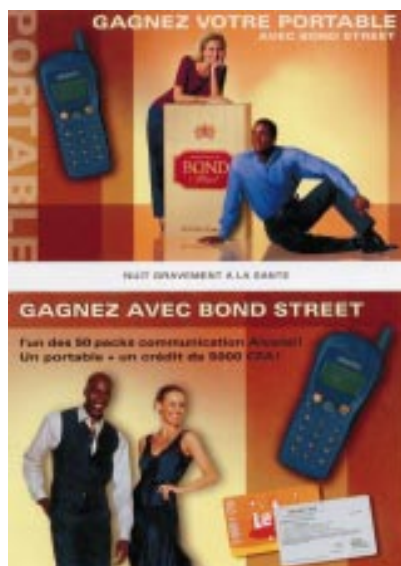
## Togo: mobile frenzy as Bond goes in for the kill

For most people in West Africa, the thought of owning any sort of hi-tech luxury goods is little more than a pipe-dream. A competition to win one of 50 mobile telephones, complete with an initial call charge credit, was therefore bound to be a hit in Togo, a small country wedged between Ghana and Benin above the Gulf of Guinea, where a mobile telephone costs more than a third of the average annual per capita gross domestic product.

Earlier this year Godfrey Philips, a subsidiary of ever crafty Philip Morris, came up with a promotion for its Bond Street cigarette brand, which exploited a popular misunderstanding. The name Bond has near legendary status among children, even those who do not attend school, thanks to the popularity of the James Bond adventure movies. His special agent's number 007 is to be found everywhere, especially on children's toys. Apparently, many children mistakenly believe that anything called Bond is associated with their hero.

Just as Bond the agent always gets the girl, played by an actress who was somewhat easy on the eye, so Bond Street the cigarette ran ads showing young men looking so happy, they must have just won either a phone, or the affections of the glamorous young woman beside them, or possibly both. As with 007's women, the models in the ads looked European, not African, just as many other African tobacco ads feature Americans or Europeans.

Entry to the draw was simple, and all over the country people rushed to buy the required pack of Bond Street. Entrants were not just the young people who seem to have been the



Ads for a competition promoting Bond Street cigarettes in the West African country of Togo: contestants stood a chance of winning a mobile phone.

main target: according to one report, even the poorest women who eke out a living by selling produce in the markets flocked to buy a pack, in the hope of winning their own mobiles. No doubt Philip Morris, which is spending millions of dollars to persuade the world it has changed its ways, would have answers to the obvious questions the competition raises about the ethics of promoting an addictive, lethal product to people locked in a daily struggle for the barest essentials of life. For increasing numbers of them, cigarettes will turn out to be the barest essentials of an early death.

## The Circumlocution Hall of Fame: and the winner is . . .

In March, many of the world's tobacco control organisations received correspondence from a Geneva based organisation named CASIN (Centre for Applied Studies in International Relations). CASIN requested information on organisations' roles in the WHO's Framework Convention on Tobacco Control (FCTC), annual reports and newsletters, explaining it had "taken the initiative of launching a study on the negotiation" of the FCTC. Smelling the deep fragrance of wolf in sheep's clothing, a quick search revealed that CASIN had supplied Philip Morris with information on tobacco meetings in 1993 and 1996, and was listed as an agency serving Philip Morris in 1997.

I wrote to CASIN's Danielle Ecoffey asking, "Your letter to tobacco control NGOs fails to mention your connection with the tobacco industry. This significant omission is plainly deceptive and unethical. Would you care to make any comment on this prior to my journal running an item on your activities in a forthcoming issue [of *Tobacco Control*]?"

Ecoffey replied on 16 April, "I understand well your concerns. They are legitimate" but by the end of a page of soothing words said nothing about who was paying for the research. I immediately wrote back suggesting that a clerical error in her office must surely have resulted in the wrong letter being sent to me, and followed this up with individual emails to the CASIN board of directors, asking the same question.

On 24 April Ecoffey replied with a weasel worded explanation, now short listed for the Hall of Fame of Circumlocution: "The study we plan to launch on the multilateral negotiation of the WHO FCTC is in no way meant for the tobacco industry." "It will be undertaken in total independence and will be public." "The tobacco industry, as you know, has used the Programme's services occasionally", and "Insofar as the work corresponded to the provision of a service, it has been billed . . . In no case has the Programme worked on behalf either of the tobacco industry or of its agents."

So let's get this straight. "In no case" has CASIN worked for the tobacco industry. But CASIN has billed them for the "work" and "service" it has done for them. It is now doing a report on tobacco control NGOs, but this report is not *meant* for the industry. Such lack of ambiguity will I'm sure inspire huge confidence in CASIN's independence.

CASIN's chairman Jean Freymond also replied a month later and was much clearer: ". . .the study was not initiated at the request of, nor intended for the tobacco industry, nor of or for anyone related to the tobacco industry. It is neither financed nor supported in any way by the tobacco industry or by anyone associated with the tobacco industry . . . This . . . is therefore a completely independent study."

This is interesting. Who would be the market for such a study, which would plainly involve considerable costs needing to be recouped? Tobacco NGOs have any number of ways of knowing about each other and are nearly drowning in a sea of emails

about the FCTC process. They are thoroughly networked and nearly all belong to Globalink and the Framework Convention Alliance. Hardly a receptive market for an expensive report about each other's activities. So who, we might wonder, is likely to be the market for CASIN's report?

Freymond provides an oblique hint. "The research studies aim at assisting policy-makers, negotiators, senior public and private managers in search for policy options in relation to the smoother functioning of the international system and international societies. The nature of the issues covered compels the Programme to enter into relation with various actors involved in the issues... In this context . . .the NGO programme and not CASIN as such has had, and has—since the late 1980s—occasional professional contacts with the tobacco industry."

*Tobacco Control* understands that very few NGOs replied to CASIN's request. Their report promises to be as compelling as *The complete guide to Swiss naval bases*.

SIMON CHAPMAN  
Editor, *Tobacco Control*

## Smoke in the machine: industry's nervous puff over Tobacco Control report

In the June 2001 issue of *Tobacco Control*, Stella Aguinaga Bialous and Derek Yach presented a paper entitled "Whose standard is it, anyway? How the tobacco industry determines the International Organization for Standardization (ISO) standards for tobacco and tobacco products" (*Tobacco Control* 2001;10:96–104). Using tobacco industry documents, the authors "describe the extent of the tobacco industry involvement in establishing international standards for tobacco and tobacco products and the industry influence on the [ISO]." Evidently, Big Tobacco was not amused.

Offering only "light and mild" praise for the authors, the tobacco industry has lavished king size attention on their paper, with editorial reinforcements recruited from companies spread across four continents. The heightened display of interest is a sure sign that a nerve had been hit by Bialous and Yach, the Executive Director, Noncommunicable Diseases and Mental Health Project Manager at the



World Health Organization (WHO), and who also manages WHO's Tobacco-Free Initiative. Clearly, issues of international measurement standards and product regulation are of critical importance to global cigarette marketing strategies.

In the February 2002 edition of *Beiträge zur Tabakforschung* (Contributions to Tobacco Research), a journal sponsored by the *Verband der Cigarettenindustrie* (German Association of Cigarette Industries), Richard R Baker, of BAT, delivers the industry's response, and it is an industry wide rejoinder, not merely the work of BAT. Though Baker, senior principal scientist of BAT Research & Development, is listed as sole author of "The development and significance of standards for smoking-machine technology" (*Beiträge zur Tabakforschung* 2002;20:23–41), he acknowledges the assistance of no less than 20 "colleagues" at BAT's competitors Philip Morris, RJ Reynolds, Imperial Tobacco (UK), and others for this first person, sometimes folksy 19 page effort.

Despite all those industry minds at work, they never mount a charge that could topple the main conclusions of Bialous and Yach that "ISO's tobacco and tobacco products standards are not adequate to guide tobacco products regulatory policies, and no health claims can be made based on ISO's

tobacco products standards". Instead, Baker provides a detailed history of the development of FTC (Federal Trade Commission), CORESTA (Paris-based Cooperation Centre for Scientific Research Relative to Tobacco), and ISO standards for cigarette smoking machines and, in passive-aggressive prose, challenges the *Tobacco Control* authors' integrity.

With almost endearing condescension, Baker says he's "sure that Bialous and Yach wrote the paper with the objective of presenting an unbiased view of the development of the subject", but immediately follows with a challenge to their concentration on "selected quotes from internal company documents, taken out of context". In one such quote, from a 1993 Philip Morris Europe research and development letter, CORESTA is described as "100% controlled by the industry" and the relevant ISO technical committee to be "made of approximately 80% Industry". Baker tries to diminish the significance of this fact by saying that tobacco companies comprise only 44% of the membership, but it turns out the rest of the members come almost exclusively from industry partners and suppliers.

While hoping, with little or no success, to find trivial errors in the Bialous and Yach paper, Baker more importantly ignores the catastrophic impact of reli-

ance on smoking machine readings, and the consequent "low-tar myth". Worse, he states, apparently in earnest, that to his knowledge: "no overt statement has ever been made by the tobacco industry to the public (consumers or the scientific community) that smoking a low 'tar' cigarette is a safer form of smoking." This, despite the fact that one of the Bialous and Yach references is to an earlier *Tobacco Control* paper (Leavell N-R. The low tar lie. *Tobacco Control* 1999;8:433–7) that details just such "overt statements".

A key message of Bialous and Yach's analysis is that the ISO standards have served the industry's interests by "providing the impression of legitimacy to industry claims that cigarettes with lower levels of tar and nicotine yield were less harmful". Baker ultimately, and notwithstanding his own "objective of presenting an unbiased view", reiterates that specious claim. Less tar makes more sense than more tar but, where measurements fail to truly reflect smoking behaviour, less can sadly be more. Smokers who stop puffing consume no tar at all. Those who take false reassurance from machine ranked tar yields do need to know whose standard it is, anyway.

STAN SHATENSTEIN

Editor, *Lighter Side*,  
Montreal, Quebec, Canada  
shatensteins@sympatico.ca



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