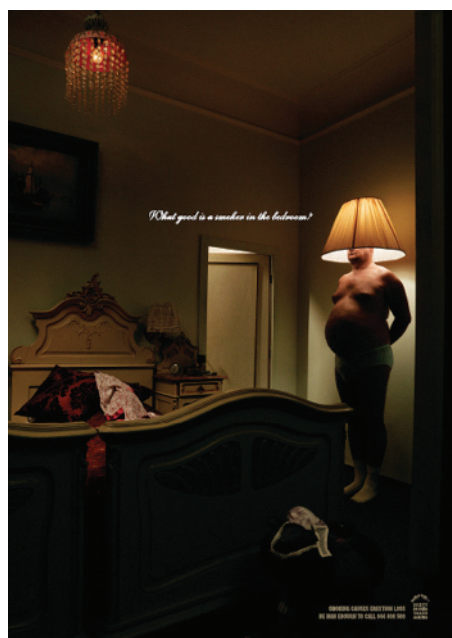


News analysis

CZECH REPUBLIC: POTENT SMOKING AND IMPOTENCE CAMPAIGN

Smoking causes up to 20% of erectile dysfunction in men. This fact, especially interesting for adolescents both male and female, was part of a campaign launched in December 2007, prepared free of charge by the advertising agency Leagas Delaney Praha for the Czech society for treatment of tobacco dependence. Together with the sexual medicine society of the Czech medical association, the campaign includes postcards, posters, press advertising and web design.

Among the images developed for the campaign are three bedroom scenes, all with a slogan that translates as, "What good is a smoker in the bedroom?" They each show an unfortunate male smoker unable to perform his expected role in bed, who has been pressed into service instead as a standard lamp, a candlestick and a glass table support, respectively. Another three images, produced on postcards in a series known as "Happy impotent", show men who suffer from erectile dysfunction, apparently now happily engaged in traditionally female pursuits such as knitting and embroidery. Small embroidery sets are being provided to tobacco shops to be given to men buying cigarettes.



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SOUTH AFRICA: SNUS "NOT A TOBACCO PRODUCT"

Just as Ali Baba is forever linked to the 40 thieves, are tobacco manufacturers always to be associated with disease, death and deceit? Swedish Match (SM), some say, is different. It is allegedly more ethical. Recent events in South Africa show that the company can "get down and dirty" with the very best, in trying to bend the law to its advantage.

In 2006, subsidiaries of SM, Leonard Dingler and Brasant, distributed promotional brochures for snus in South Africa, even though the advertising of tobacco products has been prohibited since 2001. The brochure variously claimed that snus was safer than smoking, could be enjoyed where smoking was prohibited and was environmentally safe.

The National Council Against Smoking (NCAS) complained to the Advertising Standards Authority (ASA) that the brochure was illegal and should be withdrawn. Leonard Dingler responded that snus was not technically a tobacco product as defined by the Tobacco Products Control Act and,

therefore, was not governed by the Act. So the company claimed it was free to advertise snus.

The case hinged on whether snus was legally a tobacco product. South African law defines a tobacco product as "any product made from tobacco and intended for use by smoking, inhalation, chewing, sniffing or sucking," a definition also used by the European Union and other jurisdictions.

Leonard Dingler claimed that, "Snus is placed under the lip, but no chewing, sucking or sniffing is required" and that snus was not intended for use by any of the means described by the law.

The NCAS countered that snus was sucked. Since the act does not define the word suck, its ordinary dictionary definition holds. One meaning of suck is "to hold, moisten or manoeuvre in the mouth". Snus is held between the lips and teeth and is moistened, so that nicotine may be absorbed. It is therefore sucked. Case made.

The initial ruling of the ASA directorate agreed with the NCAS and ordered the brochures to be withdrawn. Leonard Dingler appealed against the ruling but the appeal was rejected. Dingler appealed once more to the final appeals committee of the ASA.

Dingler stated in its appeal that the passive holding of an object in the mouth did not amount to sucking, as it did not involve the buccal, cheek and tongue muscles that have to be used to create a suction so as to, for example, suck liquid into the mouth.

In deciding which of the two definitions of suck applied, the appeals commission used the so-called golden rule of interpretation. This says that a court will be justified in departing from the literal sense of a word or modifying it in such a manner as will secure a conclusion, which will give expression to the true intention of the legislature. Further, courts may disregard even clear and unambiguous language where it would lead to a result contrary to the intention of the legislature. It is presumed that the legislator intends the courts to observe the *maxim ut res magis valeat quam ferat* (it is better for a rule to have effect than to be made void). So statutes must be enacted in



Czech Republic: English language versions of some of the original Czech advertisements used recently to highlight the role of smoking in erectile dysfunction. Two series of images, called "What good is a smoker in the bedroom?" and "Happy impotent", urge male smokers to telephone the national helpline number for advice on giving up smoking.

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such a way as to implement rather than defeat the legislative purposes.

The appeals committee accordingly concluded that to give sucking a narrow meaning as proposed by Dinger, would allow the "very mischief the Act was designed to remedy to be achieved... To insist that cheek muscles and tongue have to be used otherwise it is not a tobacco product" would defeat the purposes of the Act. The appeal was dismissed.

The episode provides a cautionary tale, demonstrating that even a tobacco company that would have us believe it should not be classed in the same low category as the big cigarette manufacturers can behave in exactly the same way when its interests are threatened. Also, apart from demonstrating how an already good law was interpreted the way parliament had clearly intended, defeating an attempt at outrageous legal trickery, it had another, even more positive outcome. Parliament amended the definition of a tobacco product, which is now described as a product "intended for human consumption", removing any ambiguity. (See also South Africa: Swedish snus snare. *Tobacco Control* 2007;16:365-6.)

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TURKEY: NEW FEARS, NEW HOPES

Long-term readers of *Tobacco Control* may have felt quite giddy at times from the rollercoaster developments of Turkey's tobacco control policy. There was little movement at the start, of course, but once the thing got going, speedy policy gains were followed by hopes being dashed by economic supremos insisting on letting the free market—for which read Philip Morris and friends—being allowed seemingly unfettered access to the nation's huge youth population. Next there was to be a comprehensive tobacco bill, then it got stuck and, even after finally being passed into law, the government seemed highly reluctant to enforce it.

All that is history now, an optimist might think, with the new start offered by the World Health Organization's Framework Convention on Tobacco Control (FCTC). But the white knuckle ride has started again, with news late last year that the much needed smoke-free bill required under the FCTC had left the commission of justice not as the shiny new state-of-the-art model that health workers had been working so hard to produce, but in a state they could only describe as "destroyed". And surprising as it may have been to anyone naive enough

to believe the corporate social responsibility nonsense spewed out by tobacco companies, the usual suspects who do the companies' dirty work in the media had been running highly misleading articles justifying the destruction.

However, this is Turkey and when the roller coaster plunges down, it can often swoop back up again unexpectedly to its former height. Sure enough, when the country's prime minister, accompanied by health minister, launched the national tobacco control programme in December, his speech sounded as though he really was determined to have strong legislation and completely smoke-free indoor areas. As health experts were weighing up whether they could allow themselves to recover some of their lost hopes, they realised that their premier was unaware of the treacherous items in the bill that were so favourable to the tobacco industry. So what did they do? Again, remember this is Turkey, where things can work a little differently from many other countries. They simply stopped him on his way out, explained the dangers and pleaded with him to hold out for a completely smoke-free environment. Their reward was an assurance from both the prime minister and the health minister that they would stand firm. Time will tell how it will all end but meantime the roller coaster was last seen heading upwards again.

JAPAN: REVOLUTION ON THE STREETS

While tobacco control policy often develops incrementally, progress occasionally arrives with a "tipping point"

dynamic. After seemingly fruitless years of administrative petitions, lawsuits and public protest, the quick uptake of smoke-free taxi rules in Japan from 3% to over 50% in a mere 16 months represents a great leap forward. Advocates have achieved stunning results as this enhancement for clean air for passengers will vitally protect the workplace health of well over 100 000 taxi drivers.

The change began quietly when the taxi association in Oita, a small prefectural capital on Japan's southern island of Kyushu with a substantial tourism economy, implemented Japan's first smoke-free taxi rules for its 980 vehicles in April 2006, adding an additional 180 taxis in the prefecture's outlying areas in September 2006. Then, after May 2007, when Nagoya's taxi association proved this could work for 8000 taxis in the country's fourth largest city, Kanagawa prefecture including Yokohama and Kawasaki, Japan's second and ninth largest cities, and eight other prefectures rapidly joined in. The crown jewel was put in place in August 2007 when the city and metro region taxi associations of the capital, Tokyo, announced smoke-free rules scheduled for implementation in January 2008.

Important tasks remain. Taxi regulation has come about by local industry self-regulation, attributed to customer demand more than to public health, due to smoke left in too many cabs throughout Japan. Also, while progress is materialising from an advisory national law and market-driven private sector policies,



Japan: a comprehensive street sign clearly showing what is not permitted in streets within the area shown on the map.