

# News analysis

## RUSSIA: PANDORA'S BOX, OR HOLY FOOLS' FLASH MOB?

Members of the Russian Anti-Tobacco Advocacy Coalition (ATACa) filed requests at the federal prosecutor's office and in four cities last November for the initiation of an investigation. Earlier in the year, the coalition had asked the ministry of health of the Russian Federation whether tobacco was toxic. It received the usual official confirmation that tobacco products were the only ones of their kind, containing carcinogens, toxins, mutagens, etc and still being sold to the public. The coalition then asked the ministry why tobacco products were sold if they were toxic. Although no reply was received within the 30-day period fixed for replies to inquiries about matters of law, officials did contact the coalition later.

On Russia's annual "Smoke-Out" (cessation) day, 20 November 2008, five members of the coalition from Moscow, accompanied by others from the four next largest cities, visited the state prosecutor's office to submit a statement asking for a criminal case to be brought against all tobacco points of sale and all companies producing tobacco products. The basis of the demand was article 238 of the country's criminal code, which stipulates two years' imprisonment for those found guilty of the sale or production of goods which do not meet safety criteria, or which cause harm to health. Russian law, unlike that in Europe or the USA, makes no exemptions for tobacco, or for any other goods that might later turn out to be harmful to health after being made available on the market, however widely. The existence of publicly recognised addiction to nicotine, which destroys the free choice argument, takes tobacco products outside civil code regulations, which are concerned only with voluntarily agreed dealings between citizens.

The statements outlining the request for legal action were sent or submitted in person to the Prosecutor General of Russia, city prosecutors and area prosecutors according to the location of production plants and points of purchase of samples of



Russia: The Kiss ad showing in the Moscow underground railway system last year, finally replaced when it was deemed to be targeting youth.

the toxic goods, namely cigarettes in various price bands, and chewing, sniffing, pipe and water-pipe tobacco. As far as we are aware, this is the first time this particular clash of law and reality has been utilised to produce such legal arguments.

Knowing that tobacco is the only consumer product that is lethal when used as intended by the manufacturers but sold legally, we started wondering how this anomaly came about in the first place. Which documents actually legalise tobacco?

We failed to find any such documents within the Russian legal framework, apart from some old technical standards, which, by the same logic, also contradict the criminal code since they legalise the production of toxic substances. The US Master Settlement agreement also made us wonder why US states put the blame for tobacco's harm entirely on the tobacco industry and not also, for example, on the US federal government which had permitted the industry to kill and harm its citizens. In our view, the same kind of legal case could have been brought in Russia, since production and sales of tobacco contradict the right to health stipulated by the Russian constitution, making all the current exemptions for the only addictive toxin on the market unconstitutional.

While our requests for the initiation of a criminal investigation received some coverage in national and regional news media, on 21 November, the day after they were lodged, there was another

significant development. The State Duma, the lower chamber of the Russian parliament, approved the second, semi-final draft of the technical regulations for tobacco products. On 23 December 2008, the final version was approved by the Russian president. The legal initiative, soon to become law, was developed in contradiction to article 5.3 of the Framework Convention for Tobacco Control (FCTC)—Russia acceded to the FCTC on 3 June 2008.

This national standard for the production and packaging of tobacco goods was prepared by associations of tobacco producers, a fact in which they publicly take pride, advertising this in the media as the achievement of the tobacco industry in the field of self-regulation. In effect, the initiative legalises the use of deceptive terms such as "light" and "mild" and Russian equivalents, prohibited by article 11 of the FCTC. The trick of accompanying such terms by a footnote—"Lights are not safer than regular cigarettes"—first used in Japan by JTI, which is 50% owned by the Japanese government, is now being recycled in Russia. While only the most important and superficial dangers of the standards document are noted here, there are many more, including relatively weak labelling standards. Interestingly, the technical regulation was originally promoted by the tobacco industry as a requirement of the World Trade Organization, which Russia is no longer planning to join, and was only later said to be an obligation related to FCTC accession.

The technical regulations concerning production and packaging even contradict overall Russian law on technical regulations, as the latter states that no provisions may legalise standards for toxic substances. Packaging is subject to regulation by law "on limiting tobacco use", which is currently very weak, with requirements for warnings covering only 4% of the larger surfaces of the box. Many of ATACa's members believe that one of the reasons for such vigorous promotion of the document by the industry is that the regulations aim to legalise tobacco formally and to avoid such legal actions as we began last November. It will not come as a surprise to us if similar "technical" regulations are promoted by the industry in other countries, especially those of the Commonwealth of Independent States (CIS—the former Soviet republics, excluding the Baltic states).

While Russia has one of the highest levels of mortality in the world, with male

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life expectancy below 60 and the fourth largest army of smokers, still growing despite the shrinking population, the evidence shows that the major difference in health compared with other industrialised countries relates to two factors: smoking and alcohol abuse. Men in Tajikistan—the poorest country of Central Asia, with a devastated economy and a collapsed health system—have nearly 10 years of advantage in terms of life expectancy; yet still the Russian government does not introduce tighter controls of the industries producing the products substantially responsible for the difference.

Direct tobacco promotion continues through advertisements that exploit loopholes in the regulations. However, even the usual official tolerance of such ads was stretched too far last year by an advertisement in the Moscow underground railway system, for a youth-friendly cigarette called Kiss. Ironically, the company that produces this brand is owned by a politician, a member of the Duma. Outdoor ads are banned in Russia, but the tobacco industry argues that underground railway ads are not outdoors, and are thus exempt. The Kiss ad said in Russian, “Kiss style thoughts” at the top, with a second slogan stating, “If it’s not allowed but you want to, then you can”. When the state anti-monopoly committee decided that the ad was targeting youth, it was removed, though soon replaced by another for the same product.

Hope for health improvement comes from the constitution of the Russian Federation and the framework law on health protection, both stipulating the priority of health rights over all others, and providing the basis for taking tobacco off the shelves of the free market, introducing tight controls over sales and production, such as by a regulated market, and with the ultimate goal, in the long term, of making tobacco products illegal. The requests made to prosecutors by ATACa members, for the initiation of investigations, represent the first step in this direction. We hope we may have opened a Pandora’s box. At present, industry analysts may still think that what we did was just a “flash mob” activity by “holy fools”. But already, one prosecutor has invited us to give further details on the opening of a criminal case.

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Greece: pupils boarding a school bus. Many public service buses festooned with cigarette advertisements serve as exclusive school buses at appropriate times of day.

### GREECE: ACTION AT LAST!

For Greece, smoking is particularly hard to quit. Documented to have the highest per capita cigarette consumption globally and loath to comply with any legislation that could be seen to restrict personal freedom, Greece is currently a haven for both smokers and tobacco industry activities. However, things could be at a turning point. 30 years after Greece’s last comprehensive anti-smoking campaign, deployed in the late 1970s and early 1980s by an enlightened health minister, Dr Spiros Doxiadis, a national action plan against smoking has finally been developed. Steered by the equally enlightened, current health minister, Dimitrios Avramopoulos, its first bill has already been voted through parliament (in December 2008) at lightning speed, and without media coverage.

This four-year and 40 million Euro plan aims to reduce adult and adolescent smoking prevalence by 10% and 20% respectively by the year 2012 through the ratification of guidelines to the World Health Organization’s Framework Convention on Tobacco Control (FCTC). In general, this action plan aims to create a smoke-free Greece, restrict youth access to tobacco, intensify product labelling, and educate young people and the general population on the detrimental effects of active and passive smoking. It will also increase smoking cessation activities, which will take the lion’s share of the budget. Implementation of the plan will be gradual, over the next four years, with new legislation adopted annually.

The legislation recently passed is a breath of fresh—smoke-free—air, both for Greeks and for the millions of tourists who visit mainland Greece and the Aegean islands each year. From 1 July 2009, smoking will not only be forbidden in all educational institutes and health

care services, but also now in the catering industry, including bars, cafés and restaurants. Unfortunately, there are major exceptions, as the law does not apply to venues smaller than 70 square metres, in which the owner can choose to apply the law; and venues larger than 70 square metres are allowed to have separate smoking rooms that must be physically separated from the main premises.

As painfully documented in Greece, the largest problem is not creating laws but actually enforcing them, as the majority of previous regulations have been flagrantly ignored by both the public and public health inspectors, with the latter turning a blind eye in the past to smoking in hospitals, schools, universities and the separate (theoretically) smoking areas in hospitality venues. According to the newly passed legislation, violators caught smoking in designated non-smoking areas will be fined between €50-500, and the owner from €1,000 to €20,000.

A number of measures aimed at preventing smoking initiation among youth have already been passed by parliament under the new legislation. The sale of tobacco products to youth will be banned, as will single product sales, vending machine sales and cigarette packs containing less than 20 cigarettes. Despite the fact that the “forbidden fruit” image is often cultivated by the tobacco industry when such a law exists, the abolition of 10-packs is seen by health advocates as a positive step in reducing adolescent smoking. Price-sensitive adolescents often fall prey to carefully crafted and cheaper 10-packs; a staggering 57% of the pocket money of Greek adolescents goes on tobacco. In addition, the free promotional distribution of tobacco products, a sight commonly seen at present in cafés, bars and nightclubs throughout Greece, will also cease from 1 July 2009.

The newly passed legislation does not mention reducing the rampant tobacco advertising on outdoor billboards, buses—even state school buses—bus stops and points of sale. It specifically states that “the placement of cigarette products in shop windows is forbidden *except* for duty free stores, kiosks and tobacco industry-owned shops”—but these exceptions account for more than 95% of tobacco sales in Greece. Already a transition towards the creation of power walls on both the interior and exterior of points-of-purchase has been noted, while industry-owned kiosks are already appearing one after the other.

The new legislation is a clearly positive step in the right direction, but is hopefully



only the first of many new laws that will make Greece completely smoke free by 2012. The action is to be applauded and the implementation of all remaining measures proposed in the national action plan against smoking is eagerly anticipated.

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### EUROPE: PRO-SMOKING CONFERENCE THWARTED

A rag-bag list of pro-smoking, anti-regulation organisations, many apparently consisting of a few activists trying to turn back the clock of clean air legislation, almost won themselves the distinction of holding a meeting in the European Parliament recently. Health advocates who fought hard over many years to clear the air in Europe were shocked last December to spot the conference, scheduled for 27-28 January, entitled, "The 1st World Conference Against Prohibition: Smoking Bans and Lies". The organisers turned out to be a group called The International Coalition Against Prohibition—TICAP—and the agenda of the conference, billed as free of admission charges and facilitated by simultaneous translations between French, Dutch and English, included give-away topics such as, "Epidemiology and passive smoking fraud".

Most of the groups behind the conference were European, some familiar as irritants in health policy debate, with a Canadian anti-regulatory body and a US pro-smoking group adding transatlantic flavour. A British member of the parliament was listed as sponsor, thus allowing the external group to hold an event in the premises.

So, the European Parliament was set to welcome an event that appeared to contravene its own rules of procedure, go against its adopted reports and the European Union's legislation and commitments on tobacco control, and violate the spirit of the Framework Convention on Tobacco Control. Faced with such an absurd proposal, the European Smoke Free Partnership (SFP) wrote to ask senior officials of the parliament to investigate the merits of granting the use of their premises for the conference. With reassuring speed, a message came back that the relevant authorities had decided to cancel permission for the conference to take place in its buildings. The conference venue was subsequently changed to a Brussels hotel.

### WORLD: E-CIGARETTES ARE HERE

There has been a marked increase recently in the marketing of "electronic cigarettes", small cigarette-like plastic devices which deliver a vapour containing nicotine when sucked by the user. Reports of their appearance have come from, among other countries, Canada, Lebanon, Turkey, Brazil, the Netherlands, Sweden, Finland and the United Kingdom. Although flavourings are added, it is generally presumed that, lacking the tar of conventional tobacco smoke, e-cigarettes must be much less harmful. However, there is no evidence yet about the health effects of their long term use, nor of their efficacy, if any, as smoking cessation aids. The World Health Organization (WHO) became sufficiently concerned last year by some manufacturers claiming WHO approval for the use of e-cigarettes for cessation that it issued a statement cautioning them to desist.

Early attempts by international tobacco companies to design devices that would mimic real cigarettes, delivering the user a nicotine fix without smoke, sank without trace.

It remains to be seen whether the latest type of e-cigarette, the fourth generation of design, according to those who sell them, will fare any better than their early counterparts. The devices, mostly made in China, certainly look much more like the real thing. They consist of a cylinder like a cigarette incorporating electronic circuitry and sensors, a rechargeable battery and replaceable cartridges that deliver nicotine and flavourings in a fine mist when the user sucks the mouth end. Advertising messages stress safety features, not just by comparison to smoking, but additionally citing smart technology that shuts down the device if more than a specified number of inhalations are made within a certain time, or if a maximum duration of a single inhalation is reached, to limit total nicotine intake.



UK: an illustration from the Gamucci electronic cigarette (e-cigarette) brochure.

Some e-cigarette brands are being promoted with glamorous associations that are strikingly similar to those used to push regular cigarettes in the bad old days before meaningful advertising curbs. In the United Kingdom, for example, a recent brochure promoting a device called Gamucci—a name remarkably like the prestigious fashion brand Gucci—used images of attractive young people in social, party-like situations. It looked as though the creative team of an ad agency that had once targeted young people with regular cigarette brands had simply picked up again from where they had previously left off.

However smart the ads, Gamucci seemed muddled about disowning the product's use for cessation. Among a number of warnings that it was not intended for pregnant women or those sensitive to nicotine, that nicotine was highly addictive, and that it was not intended as a smoking cessation device, a statement about its low cost compared to smoking noted that smokers could use the device "to cut down, break the habit and ultimately quit smoking altogether".

Several health concerns arise. Apart from the lack of evidence of cessation efficacy, e-cigarettes could maintain cigarette smoking in exactly the way the big cigarette manufacturers had in mind when trying to market earlier devices "for when you can't smoke." Any perceived health endorsement for e-cigarettes may be understood by smokers who might otherwise try to quit as meaning that using both products—e-cigarettes in smoke-free areas and cigarettes at other times—offers a safety advantage.

As health officials around the world see a new nicotine product trying to establish itself, and arguments similar to those of the snus debate are circulated, it is worth noting that one country at least has taken swift and decisive action. On 11 June, Dr Hatai Chitanondh of Thailand, president of both the Thai Health Promotion Institute and the Conference of Parties of the Framework Convention on Tobacco Control, put out a press release declaring electronic cigarettes "a new menace to Thai society", and describing an attempt to get permission to import the new form of addictive substance. He was particularly concerned about nicotine dosage, as each cartridge of the product intended for the Thai market would contain 18mg of nicotine, compared with the average machine-measured 1.2mg in ordinary cigarettes in Thailand. Just two days later, the Thai minister of public health issued a statement echoing Dr



**TAIWAN: MORE METRES FOR SIGNATURE BANNER** Volunteers from the John Tung Foundation, Taiwan, collected signatures on more than 700 "Signatures against Tobacco" banners at their annual conference last year. By the end of the year, more than 1000 banners measuring 2 metres by 1 metre and each containing around 150 signatures, had been gathered by the project organiser, Mr V Regunathan, a tobacco control advocate from Tiruchirappalli, Tamil Nadu, India. They were collected for display at the World Conference on Tobacco OR Health in Mumbai, India in March (see also *Tob Control* 2008;17:219).

Chitanondh's concerns and ordering the department of disease control and the FDA to co-operate in banning the product's import. Then, with a speed that many other countries can only dream of, on 6 August the health ministry confirmed that the import and sale of e-cigarettes would be banned.

#### ARGENTINA: BAT HIRES FAMOUS JOURNALIST

Nobleza Piccardo (N-P), the Argentine subsidiary of British American Tobacco (BAT), wants to improve its corporate image through the employment of a well-known Argentinean journalist, Magdalena Ruiz Giñazú. Since 2001, N-P has been developing a programme of corporate social investment, called "Social Balance". N-P defines it as "the process that allows us to understand expectations of interest groups and to know which aspects of our business generate more worries in society".

As part of this process, N-P has begun a series of dialogues with different interest groups, such as medical organisations (especially paediatric associations), members of Congress, governmental and non-governmental organisations with an interest in the protection of children, parent-teacher associations and the media. Health advocates contacted some of the medical organisations that had taken part

in N-P's dialogues, but received no reply. Magdalena acts as the moderator of such dialogues and as an intermediary between N-P and the other participants of these series of "social dialogues".

Magdalena, who has been one of the most recognised opinion leaders in our country, has an irreproachable ethical and professional background. In addition, she has belonged to different human rights organisations since the time of the former military dictatorship (1976-1983), when she played an outstanding role by denouncing the disappearances, when the regime imprisoned or killed people it considered enemies of the state. In 1984, because of her prestigious career, she was invited to join the Comisión Nacional sobre la Desaparición de Personas—CONADEP—the national commission on missing people, an organisation involved in the investigation of the violation of human rights during the military government.

Magdalena's participation in the tobacco dialogue is a great disappointment to tobacco control advocates in Argentina. A youth organisation wrote to Magdalena herself to question her participation, but she did not reply. N-P's exploitation of her illustrates its determination to try to portray itself as socially responsible, by using its virtually unlimited resources to buy the services of the best front people that may be available for hire.

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#### CANADA: WEB ANIMATIONS

The Canadian health ministry, Health Canada, has released three web-based animations about tobacco combustion. The initiative follows a survey conducted in 2006 indicating that the origin of the toxic chemicals in smoke was not well known or understood by the public. Those surveyed also expressed interest in receiving information about tobacco combustion and the chemicals it forms.

In response, Health Canada's tobacco control directorate developed scientifically accurate information in a user-friendly format designed to appear on the internet. Under the title, "Tobacco: Behind the Smoke", three animated fact sheets have been developed. The first describes the process of tobacco from plant to cigarette;



**WORLD: TRADE MAG'S TOUGH WARNING** In many countries, tobacco trade magazines are the only media in which tobacco advertisements are allowed, usually with exemption from carrying health warnings, though this ad, from the online version of the *Tobacco Reporter* in January 2009, pulled no punches. The ad, by the United Kingdom-based tobacco manufacturer Imperial Tobacco, used one of the more strident European warnings, possibly the first occasion when a tobacco trade journal has published such a direct admission of medical fact. It makes a stark contrast to previous utterances from Imperial's chief executive, who as recently as 2002 was still denying that smoking caused lung cancer.

the second, combustion and the formation of toxic chemicals in the smoke; and the third, the health effects of smoking. All are clear and comprehensive, giving important information that may come as a surprise to many smokers. The animations are available at the Healthy Living section of Health Canada's internet site: <http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/fact-fait/smoke-fumee1-eng.php#cont>

#### CORRECTION

In the last edition of *Tobacco Control* (Vol 18, No1), the tennis player shown with a Davidoff advertisement in the figure at the top of column 2, page 8, was Stanislas Wawrinka, not Roger Federer as stated in the caption.