

Worldwide news and comment

SOUTH AFRICA: BAT FAILS IN LATEST CHALLENGES TO LAW

After years of trying to wreck South Africa's tobacco control legislation, British American Tobacco (BAT) has almost reached the end of the road. On 20 June, the country's supreme court dismissed an appeal from BAT's South African subsidiary, Batsa, against the judgement of a lower court which had ruled that the country's tobacco advertising ban was constitutional.

South Africa banned tobacco advertising in 1999 by an amendment to the Tobacco Products Control Act of 1993. However, cigarette companies claimed there was a loophole that allowed them to continue advertising via social media and direct-promotions: in industry language, to communicate 'accurate and truthful' information on a one-to-one basis with adult smokers. Strategies included 'cigarette parties' and viral or 'buzz' marketing; particularly effective in reaching children and adolescents.

In 2008, parliament again amended the law to outlaw such marketing tactics. However, in 2009 Batsa went to the North Gauteng High Court, in the capital, Pretoria, asking it to declare the amendments to the law unconstitutional, or interpret it to allow one-to-one promotions to continue. When the court rejected Batsa's case in May 2011, Batsa appealed to the Supreme Court of Appeal.

The case demonstrated the importance of the WHO Framework Convention on Tobacco Control (FCTC) in defending national legislation. The judgement specifically stated that South Africa, as a Party to the FCTC, was obliged to consider the treaty's requirements, specifically Article 13, requiring Parties to ban all tobacco advertising, promotion, and sponsorship. It was not open to the health minister and the legislature to ignore the FCTC when considering what steps to take to deal with the risks posed by tobacco use.

The clear evidence that tobacco advertising increases tobacco sales was among

the factors cited by Justice Mthiyane for the government's responsibility to ban tobacco advertising. Cutting straight to the heart of the matter, another judge, Justice Farlam, wrote that "all the communications which [Batsa] wishes to make are designed, in some way or other, to promote the sale of their products and thus maintain in place the mischief which the act is designed to combat."

Although the South African court system has shown an exemplary understanding of what the country's parliament intended when passing and amending its tobacco law, Batsa did not give up. On the last day open to it, 10 July, it lodged a notice to appeal to the Constitutional Court of South Africa, showing what BAT means by 'operating responsibly'. On its website, it explains, "If a business is managing products which pose health risks, it is all the more important that it does so responsibly." In South Africa, that has meant making every last effort to try to thwart legislation aimed at reducing the recruitment of young people to smoking, which already causes 8%–9% of all deaths in the country. But to no avail: on 8 August the Constitution Court upheld the Supreme Court ruling.

THAILAND: ANTI-SMOKING AD GOES VIRAL

A powerful anti-smoking ad produced for the Thai Health Promotion Foundation has gone viral, viewed over 3 million times in 3 weeks. Produced by Ogilvy Thailand, it shows young children approaching unsuspecting adults who are smoking and asking them for a light. In each case, not only did the adults refuse to give the children a light, they unhesitatingly proceeded to tell them all the reasons not to smoke. The child then hands the adult a note which says: "You worry about me, but why not about yourself? Reminding yourself is the most effective warning to help you quit. Call the Quitline to quit smoking."

The ad has been widely praised for its fresh approach of getting smokers themselves to list reasons not to smoke; in itself a demonstration of the effectiveness of Thailand's comprehensive approach to tobacco control. Youtube metrics of one of the most viewed links to the video show it is at least as popular in English-speaking countries as in Thailand, and its reach extends across the globe. In Thailand itself, it generated a 40% rise in calls to the Quitline.

At the time of going to press, the Ogilvy Asia link to the ad had just over 26 000 views. The video has been posted by multiple other users, often generating

hundreds of thousands of views, and in one case, over 2 million. The success of the video shows the potential for global approaches to social marketing with universal themes, and mass reach through social media.

To view the ad and additional commentary, go to the Tobacco Control blog <http://blogs.bmj.com/tc/>.

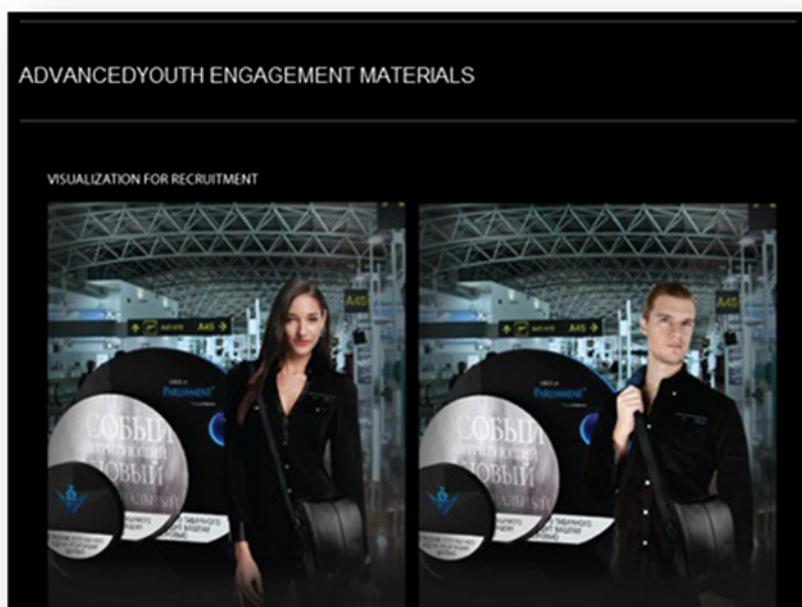
RUSSIA: SNUS TARGETED AT YOUNG & WEALTHY

In December 2011 SMPM International, a joint venture between Philip Morris International (PMI) and Swedish Match, commenced a trial market of Swedish snus in Russia, following earlier test markets in Taiwan and Canada. Three snus varieties were introduced under PMI's premium cigarette brand Parliament, capitalising on its strong presence in Russia. A few months earlier, Swedish Match's CEO Lars Dahlgren had informed investors that the launch would be supported by a number of marketing activities, including brand building and sampling, given that "marketing restrictions [in Russia] are not as strict as they have been for us in the Taiwanese market and the Canadian market".

Advertising firm Proximity Russia recently shared its marketing campaign for the brand on Behance.net, an online network that showcases professional creative work (<http://www.webcitation.org/6817MRfq3>). Proximity Russia's brief was "to launch in the Russian market a new category of tobacco product targeted at wealthy audience, operating in the context of dark market". Proximity developed print advertisements depicting well-dressed young adult males, stylish product display units, and a product website (<http://www.snus.ru>) which is currently open to registered users only. The proposed marketing strategy also included 'youth engagement materials' and the use of attractive and successful looking young adults as brand ambassadors, referred to as 'snus envoys'. Similar techniques were used in the mid-1980s by US Tobacco Company when it attempted to introduce smokeless tobacco product Skoal Bandits in Europe by paying college students to promote it among their peers.

Contrary to the industry argument that snus should be legalised in the EU to offer smokers a less harmful tobacco alternative to cigarettes, snus may well be promoted in new markets to young adults and non-tobacco users. This is in line with evidence from the USA, where tobacco

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Russia: screenshot of Parliament snus targeting young people through use of brand 'ambassadors' as shown on <http://www.webcitation.org/6817MRfq3> (archived URL).

industry marketing messages have been used to promote dual use of smokeless tobacco and cigarettes and encourage smokeless tobacco uptake by young non-tobacco users. Looking at the marketing materials and accompanying brief for the parliament campaign, there is no suggestion that current smokers were the target audience for parliament snus in Russia.

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JAPAN: 50% OF SMOKERS HOLD 'TASPO' CARDS

In Japan, a wide variety of products are available from vending machines. According to the Japan Vending Machine Manufacturers' Association (JVMA), the total number of vending machines in Japan was 5.2 million in 2010. The most widely used machines were the 2.6 million selling beverages, followed by tobacco machines, of which there were 360 000. In 2010, the total sales of tobacco in Japan amounted to 3.6 trillion yen (US\$45.2 billion); of this total, around 16%—590 billion yen (US\$7.4 billion)—was in sales from vending machines.

There are age restrictions for the purchase of tobacco and alcohol products: only those aged 20 years and over may buy them. However, most vending

machines are exposed in public spaces at all times. According to the national survey on smoking and drinking behaviour for youth conducted by the health ministry in 2008, 24.9% of boys and 15.8% of girls in high school (ages 15–18) and 12.3% of boys and 9.5% of girls in junior high school (ages 12–15) had experienced smoking. The survey also showed that 30.4% of the boys and 28.5% of the girls in junior high school who had smoked usually bought their tobacco from vending machines. Surprisingly, no existing legislation keeps underage students from buying tobacco from vending machines.



Japan: a customer using a 'Taspo' age verification card to buy cigarettes.

There has been only a voluntary restriction system promoted by the National Federation of Tobacco Retail Cooperative Associations (NFTRCA). For instance, since 1996 the association has had its own regulations stating that tobacco vending machines should not operate during the night, from 23:00 to 05:00.

Since July 2008, the government, through the ministry of finance, has obliged tobacco retailers to set up a device in their vending machines to identify the purchaser's age. Prior to this new regulation, the Tobacco Institute of Japan, JVMA and NFTRCA, which is aligned with the tobacco industry, formed an alliance and started testing a new system named 'Taspo' in Chiba prefecture in 2002 and Kagoshima prefecture in 2004. The name Taspo comes from tobacco, access, age and passport. By supporting a subsidy through the alliance, almost all retailers have chosen and set up this system in their vending machines. To allow the purchase of tobacco from vending machines using the Taspo system, the alliance has issued Taspo cards containing an electronic chip with the holder's photograph, free of charge. With the start of the new regulation, the NFTRCA issued new voluntary restrictions in August 2008, allowing those holding Taspo cards to purchase tobacco from vending machines at any time of day or night.

By June 2011, more than 10 million Taspo cards had been issued, a total reached in little more than three and a half years. In a survey by Japan Tobacco International (JTI) in 2011, smoking rates among adults in Japan were reported to be 33.7% of men and 10.6% of women. Based on these totals, there were some 22 million smokers in Japan in 2011. The health ministry conducted a similar survey in 2009, estimating smoking rates of 38.2% for men and 10.9% for women. Using this (reliable) data, it can be seen that almost half of all smokers in Japan now hold a Taspo card.

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USA: CALIFORNIA TAX RISE BALLOT LOST, OPPOSED BY INDUSTRY... & A DOCTOR

California voters took to the ballot box on June 5 to vote on Proposition 29, the Tobacco Tax for Cancer Research Act. The Act was narrowly defeated by 50.3%—49.7%. If successful, the Act would have increased the tax on cigarettes by US \$1.00—US\$1.87 per pack, to be used to

fund cancer research, smoking reduction programmes, and tobacco law enforcement. The tobacco industry fiercely opposed the move, providing most of the funding for the 'no' campaign to the tune of US\$46.9 million, compared to US\$12.3 million available for the 'yes' campaign, funded largely through NGOs.

While it is to be expected that the tobacco industry would oppose such a measure, opposition also came from a more unlikely source: a doctor. Dr La Donna Porter, a family practitioner, appeared in tobacco industry-funded advertisements opposing the proposition. Her opposition was reminiscent of her appearances in a similar campaign in 2006 against Proposition 86 which would have raised taxes by US\$2.60 a pack and was also defeated.

Dr Porter is an African American, and came in for particularly heavy criticism given the higher death rates from cancer among African American people. In an open letter, the African American Tobacco Control Leadership Council (AATCLC), asked: "...did you or will you receive any compensation for your stance on Prop 29? We have a hard time believing that with all of the issues facing our community that you would pick this one to volunteer your time on. If you have received compensation, we ask that you give it back. In this year alone, over 160 000 African Americans will be diagnosed with cancer. It is difficult to believe that you knowingly participated in this disinformation campaign mounted by the Tobacco Industry, an industry that has preyed on our community for far too long."

INDONESIA: INTERNATIONAL FOOTBALLERS USED TO PROMOTE TOBACCO BRAND

England and Manchester United footballer Rio Ferdinand, together with several international football players have appeared in advertisements that promote kretek brand Gudang Garam International's internet-based sports channel, Intersport. Ferdinand is a Unicef goodwill ambassador, and has co-founded an organisation to help young people in deprived communities—starkly at odds with his image being used to promote tobacco in Indonesia, where youth smoking prevalence is soaring. Despite calls for the advertisements to be removed and for Ferdinand and others to distance themselves from the advertising, a spokeswoman for Manchester United was quoted in the UK press stating: "The contractual agreement between Rio and Gudang



Indonesia: soccer star Rio Ferdinand appearing in an internet advertisement for Gudang Garam International's channel Intersport.

Garam Intersports runs to 31 October 2012, at which time all forms of advertising will cease. Both Manchester United and Rio Ferdinand are sorry for this misunderstanding and will endeavour to ensure that it is not repeated in the future."

INDIA: POINT OF SALE GRAPHIC WARNINGS

According to the Global Youth Tobacco Survey (GYTS) in India in 2009, about 15% of youth (13–15 years) use tobacco in some form. The GYTS found 56.2% of underage youth were able to purchase cigarettes and 8.1% were offered free cigarettes by a tobacco company representative, in clear violation of both the FCTC and India's tobacco control law. Since 2004, India's tobacco control law has also required a text warning against sale of tobacco products to minors; however compliance was minimal. Given the law allows point of sale advertisements of tobacco products with text only health warnings, a high proportion of youth are exposed to cigarette ads.

Exceeding FCTC obligations, in 2011 the government of India mandated pictorial health warnings at point of sale, alongside text warnings prohibiting sale of tobacco products to minors. The strong graphic image covers 50% of the existing text warning 'sale of tobacco products to



India: point of sale warning signs.

a person below the age of 18 years is a punishable offence' to be displayed on a 60×30 cm board at all places where tobacco is sold. This regulation serves a dual purpose: both countering the point of sale advertisement, and highlighting prohibition on sale to minors. However, an assessment of compliance in Andhra Pradesh and Gujarat revealed that none of the points of sale in the two states had the statutorily specified warnings against sale of tobacco products to minors.

As part of World No Tobacco Day 2012, active community mobilisation along with sensitisation of kiosk owners was undertaken by the Public Health Foundation of India in the two states in conjunction with project partners. By the end of May 2012, more than 3000 tobacco vendors displayed the notified warnings boards in 11 of these two states. The effort garnered widespread media coverage at all levels. This low cost advocacy effort resulted in incremental compliance with Section 6 (a) of India's tobacco control law, which restricts sale of tobacco products to and by those below 18 years of age. The activity also informed the community at large about the law and in particular the tobacco vendors, to not sell tobacco products to minors.

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INDIA: SMOKELESS TOBACCO BAN

India has the highest number of oral cancer patients in the world with 75 000 to 80 000 new cases every year, representing almost 80% of the global total. Chewing tobacco and gutka or pan masala (crushed betel nut with tobacco and other additives) are a contributing factor in 90% of cases. According to the Global Adult Tobacco Survey (GATS 2010), more than a quarter of adult Indians are current users of smokeless tobacco; and it is also used by a significant number of children and youth. Chewing tobacco and gutka are sold in small pouches across the country; their easy availability, flavoured taste, low prices and attractive marketing make them popular among children, youth and women.

Following a landmark judgement by the Supreme Court of India, which ruled that chewing tobacco and gutka are categorised as food products, they now come under the Food Safety and Standards Act 2006 (FSSA). Under this Act, any substance which may be injurious to health cannot be used as an ingredient in food products,

including tobacco and nicotine—effectively opening the way for these products to be banned.

Tobacco control advocates are now focusing on full implementation of this ruling, as there remains some confusion among regulatory agencies at the state level. Three states are leading the way, by banning smokeless tobacco and gutka products: Madhya Pradesh and Kerala (April 2012), and more recently Bihar (May 2012). The order was particularly significant in Bihar state as every second citizen of Bihar state consumes gutka or pan masala containing tobacco.

The States of Maharashtra and Punjab are also contemplating banning gutka in the near future. This is an important step in reducing the tobacco-related disease burden in India.

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UKRAINE: WAITERS SERVE UP FRESH PUBLIC PLACES BAN

Ukraine has passed a new law to extend its existing public places smoking ban. In addition to health, education and sports premises, smoking will be banned without exception in all restaurants, cafés, bars, cultural and sports premises, and in governmental buildings, from 16 December this year. The law will also ban smoking in public transport stops, adding to the existing ban in public transport vehicles. Smokers will still be able to

smoke outside many public places, including restaurant terraces.

Members of parliament (MPs) from a variety of political parties ensured the passage of the new law, led by a chairperson of the parliamentary health committee, Mrs Tatiana Bahteeva. Of the non-governmental organisations supporting the law, the most important was the association of waiters, the foremost victims of restaurant smoking, recalling the crucial part played by bar workers in Ireland, which passed the world's first total public places ban. In Ukraine, waiters organised a special meeting near the parliament building in the capital, Kiev, presenting 'smoke-free' cakes and coffee to MPs.

Predictably, the tobacco industry vigorously tried to stop the law, with Imperial Tobacco writing to all members of parliament urging them not to support it. The letters falsely claimed that smoking bans in other countries had only negative consequences and alleged that other governments were going to reverse them. In addition, a 'smokers rights' initiative suddenly appeared just after the adoption of the law at its first reading in parliament. Its representatives were more than welcomed by the media, despite the fact that smoking is not a human right.

Despite tobacco industry pressure, the law was supported by 368 of 450 MPs, with no votes against it. All governmental ministries also expressed support, and President Viktor Yanukovich signed it into law on 13 June.

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VIETNAM: TOBACCO CONTROL LAW PASSED

Good news from Vietnam, where on 30 June the national assembly passed comprehensive tobacco control legislation. The new law includes the creative use of tobacco tax revenue for tobacco control. A tobacco control fund will be set up, financed by a 1% levy on the pre-tax excise price from 1 May 2013, rising to 1.5% in the following 3 years, and to 2% by the year 2019. In addition, the law will require pictorial health warnings to cover 50% of tobacco packaging; indoor public places to be 100% smoke-free, except for hotels, bars and karaoke venues; and a total ban on tobacco advertising and promotion. The past year's work towards the new law involved a coalition of health advocates and civil society organisations, in

which the Vietnam committee on smoking and health (VINACOSH) played a leading role. Currently, 47.4% of Vietnamese men are regular smokers.

AUSTRALIA/NZ: DUTY FREE CIGARETTES ON THE WAY OUT

In its May budget, the Australian government reduced the duty free allowance for cigarettes from 250–50, and tobacco products from 250 g to 50 g. The move effectively abolishes duty free tobacco, with retailers saying they will become too expensive to stock. Health groups in New Zealand are pressing for a similar move, which the government has indicated it will consider.

NEWS ANALYSIS—CHANGE OF EDITOR

More than 20 years ago, a small group of London-based public health workers trooped into the office of the then editor of *The British Medical Journal*, Dr Stephen Lock. We had come to ask him to start a new journal on tobacco control, which at the time seemed almost outrageously optimistic; but Lock, an extraordinary polymath with a strong feeling for public health, obliged. When *Tobacco Control* was launched, I wrote the first news article (including the headline—I can tell from the appalling pun it contained). Two years later, I took over as editor of the News Analysis section.

In handing over now to Marita Hefler—marita.hefler@sydney.edu.au—who is working on a PhD at the University of Sydney, Australia, I would like to thank the many friends and colleagues around the world who have contributed to the news pages since then; and to urge them to be as generous to Marita with their ideas and time as they have been to me. I shall still be submitting material to the journal, and will have more time for speaking and teaching engagements.

It has been a pleasure to put News Analysis together for the past 18 years, and to see the journal develop into such a superb resource. As long as there is a tobacco problem, it will remain an essential tool for anyone hoping to work on it to greatest effect.

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Ukraine: waiters served up 'no-smoking' cakes and coffee to legislators outside the parliament building in the capital, Kiev, in support of a total ban in restaurants, bars and other public places previously not covered by a ban. The cup reads, "Coffee smells, but cigarettes stink."