

News analysis

Turkey: first tobacco litigation

In November 2000, Turkey's first tobacco litigation, a personal injury case in the district court in Edirne, in the north-west of Turkey near the borders with Greece and Bulgaria, was filed against Tekel, the Turkish tobacco monopoly. The plaintiff was Yurdagül Tufan, 44, a smoker since she was 17, who was responsible for the support of her blind husband and their young daughter.

After diagnosis and first line therapies, an improvement in her health was achieved. Knowing that as much as possible was being done for her physical health, albeit for a terminal disease, her doctor gave more thought to what else could be done for her overall well-being. The woman was desperately concerned for the welfare of her husband and baby, for whom she would soon be unable to care and then would leave behind for ever when she died. Although nothing could be done to save her life, at least she might be helped to understand that she was not the only one responsible for her situation, and could use her case to warn others not to smoke.

From what the doctor had learned from international news media and the internet, he conceived the idea of suing the tobacco company whose cigarettes she had smoked. Despite finding little support for the idea among colleagues, and although a lawsuit seemed an absurdly ambitious concept, he found a lawyer, Rifat Çulha, who was persuaded to run the case without payment. So Tekel was duly sued for compensatory and punitive damages of 1.1 trillion Turkish Lira (about US\$1.6 million).

It was an utterly new phenomenon in Turkey, and a cause of general astonishment, reflected by widespread interest from the mass media. A quick search on the internet, by headlines and sub-headlines, found almost 80 news items about it. The story was also shown on the main news programmes of national television channels. The disease process, the trial day, the death of the patient and the amount of compensation claimed—all, in turn, were the basis of substantial news stories.

The suit was eventually rejected by the local court, after two and a half years, and details of the judgement suggested significant confusion. In

essence, the court said it was a matter of free choice whether or not a person smoked; it was not proven that smoking caused cancer by itself; and the causes of cancer were not entirely clear. The patient could have become ill from other carcinogenic agents, including those found in many foods that were widely sold and consumed. In addition, the defendant, the tobacco company, was providing a legal product, and did not have a legal obligation to look after people's health. The court also noted that there was a health warning on cigarette packs saying, "Cigarettes harm your health", and in any case, the harm done by cigarettes was known by everybody, even without a health warning. This fact did not alter just because the product was advertised; it was the duty of every person to protect his or her health.

After this judgement, the lawyer appealed to the supreme court. However, after a process of two years it just became too burdensome, and he withdrew the case. He also decided not to appeal to the European Court of Human Rights, as previously intended. Although the case had been on the national agenda in a big way, no non-governmental organisation, or scientific or legal association, had come forward to support it.

Even though the final result was negative, this first attempt at tobacco litigation had many important effects. Firstly, it raised the level of discussion in Turkey about the harm caused by cigarettes, and made them clearer in the public mind. The whole country watched the death of a mother and wife, and the effects of her lung cancer, step by step. Tekel and other tobacco firms changed some of their unhealthy practices of their own accord. Tekel, due to be privatised, was clearly attractive to the large international tobacco firms. However, the privatisation programme fell behind schedule and it seems reasonable to speculate that at least one factor may have been the litigation.

In contrast to some of the US cases, Turkish citizens are still being killed by tobacco without costs being imposed on



The woman at the centre of Turkey's first tobacco litigation case, Yurdagül Tufan, with her blind husband and their daughter.

the companies. Much more vigorous tobacco control could be possible in Turkey if such suits began to be won. As the World Health Organization has recommended, the tobacco industry has to be held responsible at both the national and international levels, by legislation, law suits and other methods. Enlightened tobacco control leaders in the industrialised world must not overlook the harm being wrought on those living in countries with fewer resources, in terms of both finance and information about tobacco, by the same companies which they have been able, at least partially, to control in their own countries.

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USA: Pacific island clears the air

The 9th December last year was a historic day on the Pacific island of Guam, an unincorporated territory of the United States. Governor Felix Camacho signed into law a bill making restaurants and most enclosed public places smoke-free. Bill 16 was written by Democratic senator Lou Leon Guerrero, who, in 2003, raised tobacco taxes on Guam. While the bill that was passed was not as strong as the original version, it represents a step towards a healthier future for the island's 170 000 people, who have the highest adult smoking prevalence of all US States and Territories.

It took a lot of manoeuvring and shrewd political strategy to get the bill passed, because of efforts to block and/or dilute it by parties aligned with

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South Africa: fire on Table Mountain One of the hazards of smoking which tends to receive less attention than it merits was all too starkly illustrated by this fire on Table Mountain, outside Cape Town in January. It was started by a British tourist throwing a cigarette butt out the window of his car. The man was spotted by an alert game guide, who radioed the police. The man was later arrested and there were calls for him to be given the maximum sentence and fine.

tobacco-related interests. Introduced by the health committee, the bill was unexpectedly taken over by the finance committee, supposedly because of concerns about adverse effects on business revenues. However, local community advocates and political observers noted that the senator heading the finance committee belonged to a powerful family that oversees the distributorship of tobacco and alcohol products on Guam. In addition, the Guam Hotel and Restaurant Association opposed the bill early on, purportedly because of concerns that it would reduce hospitality revenues, particularly from Guam's Japanese and South Korean tourists. Ironically, a recent market survey of more than 900 South Korean tourists revealed that over 80% approved of smoke-free restaurants and bars.

A public hearing held in March 2005 demonstrated overwhelming multi-sectoral backing for the bill. Letters of support came from individuals and groups locally and worldwide, after a petition was circulated on GLOBALink. Testimonies and technical advice from experts on the US mainland and in the Asia-Pacific region were critical in strengthening the case for enacting a smoke-free public places policy. Despite clear public approval for the bill, the finance committee delayed its inclusion on the legislature's agenda for eight months. During this period, the office of Senator Guerrero and various pro-health groups kept up pressure on the finance committee to release the bill for a senatorial vote. Critical information and research data were provided to individual senators regarding the positive experience of other US states and countries that have enacted smoke-free legislation.

On 22 November, the finance committee finally released a compromise version for the legislature's consideration. The revised bill stipulated that restaurants and bars prohibit smoking until 9 pm, after which it would be allowed. The majority of senators rejected the compromise version, using arguments from the technical information previously disseminated by various pro-health groups. On 30 November, 12 of the 14 Senators present voted to pass Guam's first comprehensive smoke-free public places law. The final version bans smoking completely in enclosed public places, workplaces and restaurants, but allows smoking in bars.

The combined efforts of community advocates, prevention workers, several senators committed to public health policies, and the global tobacco control community ensured that a sound version of the original bill prevailed. While not as comprehensive as the original version, the current law represents a major step forward towards creating a healthier, tobacco-free future for Guam. In addition, Guam serves as opinion leader and setter of precedents for the other US-affiliated Micronesian islands,

and is an important trendsetter for the northern Pacific. The Federated States of Micronesia (a US affiliated Micronesian country) is already looking to emulate the Guam law.

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Spain: going smoke free

From 1 January 2006 the Spanish government introduced a new law against smoking (*Ley 28/2005*). This law is not only a ban on smoking but a compendium of public health measures against smoking and regulations on the sale, supply, consumption, and publicity of tobacco products. The law's main objectives are to protect non-smokers (especially at the workplace) from secondhand smoke—currently, 69% of the Spanish adult population, both sexes combined, declare they are non-smokers—to prevent initiation among young people, and to promote smoking cessation.

The law creates smoke-free environments in all enclosed public and private workplaces and smoking is now banned in all indoor public places, public transportation including closed stations, hospitals and other health care facilities, schools and universities, as well as retail stores and shopping centres. There are important (and worrying) exemptions regarding bars and restaurants: while hospitality venues of more than 100 square metres are smoke-free, the law allows the owner to establish a smoking area of less than 30% of the total area. Moreover, in "small" venues of less than 100 square metres (as most bars in Spain are) the owner may decide whether to implement a smoke-free



The Lone Star will no longer stand alone as a smoke-free restaurant, after Guam's new legislation takes effect.



Pakistan: Karachi was recently adorned with cigarette advertisements like this one, posing as promotions for a music event, ensuring young people continue to be bombarded with positive associations for British American Tobacco's cigarettes.



In Spain, a new law against smoking has been introduced, creating smoke-free environments in all larger public and private workplaces.

policy or not—and the first estimations indicate that only 5–10% of such bars have gone smoke-free. The law limits the sale and supply of tobacco products that can now be sold only at tobacco-nist's shops and smoke-permitted (smoke-polluted) bars and restaurants. Vending machines are hence prohibited in any other place. The legal age for buying cigarettes increases to 18 years old, and vending machines will include control mechanisms to restrict their use to adults. Regarding promotion, the law prohibits all type of advertisements, other forms of promotion, and tobacco sponsorship activities in all public and private media. Again there is an exemption: a further three years has been granted for sponsorship and publicity among participants and teams in motorcycle and Formula One international races.

Not many years ago, this law was unthinkable in Spain. However, Spanish society (ordinary citizens, including smokers, politicians, and society in general) has matured. Several organisations (not only scientific societies but also non-governmental organisations such as the National Committee for Smoking Prevention and several consumers' organisations) and public health leaders created the necessary level of understanding about the reasons for the new law. The message was simple: smoking and secondhand smoke are harmful to health. A number of small but multilevel activities have been conducted by many different players, leading to a big achievement. Now the task is to ensure compliance. Improvements will come soon. In this connection, the regional governments within Spain have the right and the duty of assuring compliance (even applying the penalties specified in the law) and the ability to improve the legislation in each region. Ongoing studies to assess changes in individual and environment exposure to secondhand smoke may help to evaluate the

effectiveness of the law and even to improve it, by extending the ban to all hospitality venues if decreases of exposure only occur in workers at smoke-free bars and restaurants.

Spain is the sixth European country, after Ireland, Norway, Sweden, Malta and Italy, to put in place comprehensive regulation to prevent and control smoking. This is of particular interest, since it demonstrates that the way traced by the Framework Convention for Tobacco Control can be followed by different cultures and societies. The example of these countries may encourage not only the rest of Europe, but similar initiatives in all countries under the threat of the tobacco industry.

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Senegal: Marlboro's vigil

In November, a small delegation from the American Cancer Society participated in the Fifth International Conference of the African Organization for Research and Training on Cancer (AORTIC). The conference was held in Dakar, Senegal, at the Hotel Sofitel-Teranga. A significant portion of the conference programme was, appropriately, devoted to tobacco control.

During most of the four days of the conference, a sports utility vehicle (SUV), immaculately clean (rare for Dakar) and finished in full Marlboro regalia, was conspicuously parked at the entrance to the hotel, in full view of all the delegates and others who passed by. There was no activity connected to the SUV—it was just parked there, with a driver always in attendance. Perhaps it was a coincidence or, more likely, a subtle statement from the tobacco industry to say, "We know you cancer people are in there deliberating, and we want you to know that we're here, too—all the time." Very subtle. Those with



A pristine sports utility vehicle, emblazoned with the Marlboro logo, sits outside the entrance to the hotel where the recent annual conference of the African Organization for Research and Training on Cancer was held in Senegal.

conspiratorial minds may even have seen it as vaguely threatening.

Lebanon: young stars turned to smoke

Arab Star Academy is a popular Arabic adaptation of a French TV reality show that has been broadcast on the Lebanese Broadcasting Cooperation (LBC) and on its satellite, LBC International (LBCI), since 2003. The programme hosts a group of potential youth performers from all over the Arab world for four months where they take singing, dancing and acting lessons under the supervision and guidance of experts. Candidates are voted out regularly over the course of the series by viewers' telephone calls, or through a website, and results are announced in weekly prime time programmes.

This year's Arab Star Academy is aired daily on LBCI from about 6.45–7.45 pm and for 24 hours on another affiliated channel (Nagham). The show has found tremendous popularity among all ages, but especially among young viewers. This year the show is hosting a total of 19 youths (9 girls and 10 boys) from Tunisia, Saudi Arabia, United Arab Emirates, Bahrain, Morocco, Palestine, Algeria, Jordan, Lebanon, Kuwait, and Egypt.

In one of the programme's advertising breaks, a Davidoff cigarette ad is shown—Davidoff is a brand of British-based Imperial Tobacco. The advertisement format and content is not particularly associated with youth, rather it is a typical brand ad like those shown in cinemas. The health warning is in minute script, and ends with Davidoff's catchphrase, "The more you know". Interestingly, other ads in the same programme carry positive messages for young people about conserving the environment, for example, or youth-oriented product ads (with Pepsi as the official sponsor).

This is not the first time that Davidoff has broken ethical boundaries; previous examples have included activities connected with a "Friendship Tour" in which young people are taken around Lebanon. The Arab Star Academy is just the latest in a series of overt tobacco advertisements aimed at young Arabs everywhere. It is an issue not only of promotion to young people, but also of cross border advertising. LBCI extends its programmes throughout the world reaching millions of Arabic speaking viewers in the Middle East, Europe, Africa, America, South America, and Australia. In the United States, LBCI is reported to have up to 100 000 viewers. In addition, in Australia where there is a large Arab speaking community, Arab



A Davidoff promotional banner over the Lebanon Youth Orchestra shows how tobacco companies can link their cigarette brands to positive, well publicised activities involving young people.

Star Academy is listed as one of the highest ranking TV shows by viewers watching LBC. In Lebanon, ratings have reached 80% among viewers aged 15 and 25 years. In Saudi Arabia, 53.6% of the programme's viewers are in the age group 15–24 years, 27.9% in the 25–34 age group, 9.7% are 35–44 years of age, and 8.8% are 45 and over.

Tobacco advertising through satellite TV stations poses a major threat for countries that are trying to impose restrictions. Such ads can smartly achieve several valued goals of the “new” tobacco industry. This case study confirms the importance of the two issues of marketing to youth and cross-border advertising. Health advocates must lobby their governments to ensure it is stopped, by national action, regional cooperation, and through the Conference of Parties to the World Health Organization's Framework Convention on Tobacco Control.

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USA: Salem's new look website

Trinkets and Trash (T&T: www.trinketsandtrash.org) is a surveillance system and archive of tobacco industry products and promotions that regularly monitors tobacco product development and industry marketing, including magazine advertising, direct mail and promotional items. In the past year, T&T began to monitor tobacco brand



Mauritius: Kitsch clocks like these, somewhat behind the times in fashion, are turning up in various designs all over Mauritius, apparently trading on the name of well-known and much-promoted cigarette brands. Health campaigners say that all too often, tobacco companies only take action over unauthorised use of their brand identifiers when challenged, otherwise seeming to approve of the free secondary publicity.

websites, which we are finding to be an early warning system for tobacco brand promotions, images, and products.

In January 2006, Salem's password protected website (www.salemaccess.com) underwent a major change in both look and content, one that appears to signal a new identity for the brand. The revamped Salem website went live online some time between 10–18 January 2006. Carried by the slogan “Refresh your Spirit”, the website replaces Salem's most recent “Stir the Senses” dark campaign look of black and neon green colours with white and a natural green, for an overall lighter look and feel—apparently aiming at an image of lightness, health, nature and refreshment.

The main feature of the website as it stands now (there are some “coming soon” sections) are video clips that portray couples demonstrating different



The new look Salem website could be mistaken for that of a health spa.

massaging techniques. Soothing music plays in the background, and various relaxing “earthy” products such as aroma candles and sound machines are featured. Most of the images of people featured on the site are white and female, and little about the website would indicate to a user that this was a website for a cigarette brand. In fact, overall, one could easily mistake Salem's website for that of a health spa.

These images and themes stand in rather stark contrast to Salem's last run of popular advertising. 2004's “Stir the Senses” neon green and black ads had mysterious and ethereal themes and most often featured models from minority backgrounds, or used urban references such as fast-paced city scenes and lights. Salem's “Stir the Senses Tour Series”, also promoted in 2004, featured hip-hop themes, and was presumably targeted at a younger more urban and minority based audience. Although magazine advertising was noticeably absent in 2005, direct mail during that time at first echoed “Stir the Senses” themes and then hinted at the upcoming campaign by introducing the “Refresh Your Spirit Gateway” Sweepstakes, with the grand prize of a spa getaway break.

So what's the reason for the sudden shift? One section of the site is dedicated to Salem's “50th Anniversary Celebration”, an event that may provide a logical time for doing something new. What seems likely to be a more important reason, however, is that since the acquisition of Brown & Williamson in 2003, RJ Reynolds (RJR) now owns both KOOL and Salem, historically menthol brand competitors, and needs to develop stronger brand differentiation to maximise profits.

Finally, and of particular concern, the revised website suggests a coming campaign in which a tobacco brand tries to promote, or at least imply, perceptions of naturalness and health. Because Salem is one of RJR's “selective-supported” brands, which receive limited marketing support compared to Camel and KOOL, we may not see an explosion of promotional materials, but we can be sure whatever is developed will be

carefully crafted and promoted. For this reason, tobacco control professionals should closely monitor Salem promotions and begin to plan appropriate advocacy activities.

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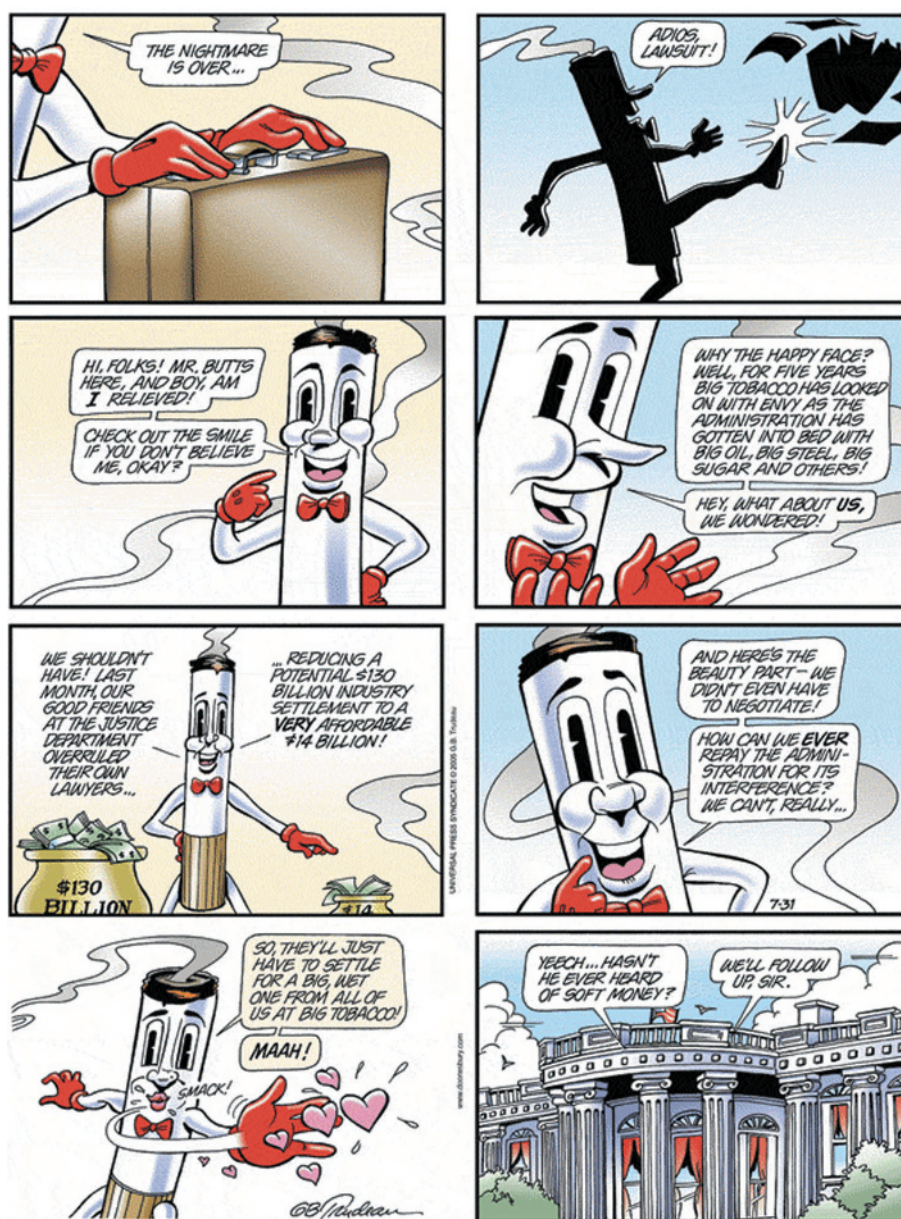
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USA: cartoonists take up smoking

Delegates to the 13th World Conference on Tobacco OR Health, to be held in Washington DC from 12–15 July 2006, will be able to see a unique exhibition presenting a history of the past 50 years of anti-smoking activities as seen through the eyes of newspaper editorial cartoonists. The exhibition, at the

National Museum of Health and Medicine, produced in cooperation with the Association of American Editorial Cartoonists, will include more than 60 original artworks, together with the headlines and other items related to the events that inspired the artists. There will be an exhibition-related event at the museum during the conference, including a talk by KAL, cartoonist for *The Economist* and *The Baltimore Sun*.

The Lighter Side



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