

# My pack is cuter than your pack

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Faced with bans on advertising, the tobacco companies are looking to new, more subtle ways of maintaining their brands' profile in the public eye

communication, 1 March 2002). We were told that more special editions are planned for the future.

British American Tobacco Australasia (BATA) recently introduced some interesting changes to selected packs of its Benson and Hedges and Winfield brands in Australia. These changes not only underline the importance of cigarette packs as marketing tools in the face of tobacco advertising bans,<sup>1,2</sup> but raise some pointed questions about tobacco companies' vociferous efforts to protect the sanctity of their trade marks.

In 2001, BATA also introduced a change to its Winfield Super Mild 25s pack, by placing a colourful image on the back of the pack, accompanied by its "anyhow . . ." tagline. This was the tagline used in all of the Winfield billboard and magazine advertising, more than 10 years ago<sup>8</sup> (fig 2).

Recent versions of the Winfield pack also sport changes to the image on the top of the pack lid. Figure 3 shows a regular pack lid and a newer version which replaces the BATA crest with a revised Winfield image.

## WHERE COMPANIES ADVERTISE WHEN ADVERTISING IS BANNED

Australia is one of the world's leaders in having banned tobacco advertising and sponsorship in all media<sup>3</sup> and, in most states, at the point of sale.<sup>4</sup> As a result, Australia can play an important role in foreshadowing industry responses to circumvent advertising bans. Lately, Australia has seen the introduction of covert tobacco marketing strategies.<sup>5-6</sup> In addition, as point of sale opportunities for tobacco promotion have become increasingly curtailed, the cigarette pack is now being used as a prime vehicle for tobacco promotion.

These changes to the packs are clearly part of an effort to encourage selected target groups of smokers to pay greater attention to their pack. One might imagine that these interesting pack designs are helpful conversation starters in the settings in which they are being sold, such as nightclubs and bars. Sepe and colleagues<sup>7</sup> show that bar promotions help the industry in engineering peer influence to encourage tobacco use among young adults. Furthermore, these kinds of promotions capitalise on the influence of social leaders in the bar and nightclub environment to disseminate information about cool brands to smoke.<sup>9</sup> Katz and Lavack<sup>10</sup> show that the tobacco companies use bar-related promotions because they recognise that these venues are ideal for encouraging sampling and trial of a brand. These studies lend support to the notion that these unusual pack images may act as clever marketing techniques to entice new consumers to try cigarettes and encourage existing smokers to switch brands.

In late 2000, BATA launched a "clubber's edition" of packs in a national marketing drive, which primarily involved nightclubs and bars in all Australian states.<sup>7</sup> The campaign involved alterations to the corporate crest on selected Benson and Hedges packs of 25 cigarettes, including its most popular variants of Extra Mild, Ultra Mild and Lights 6 mg, to create surprise scenarios. We obtained copies of the packs from the company's so-called "summer edition" in late 2001. The scenarios on these packs included one of the horses flanking the crest emerging from a box, called "Flying" and another where the horse was depicted diving, called "Diving" (fig 1). These packs, like other recent packs from BATA, include a brand specific hotline. When we rang to inquire about the packs, a helpful BATA employee told us that there were another three designs including "DJ", "Out to Lunch", and "Shoes". She explained that the packs were a special summer edition called "Festive 2", created "for fun and to increase interest in the brand" (anonymous BATA employee, personal communication, 27 February 2002). In a later call, the hotline employee said that the special edition involved "playing with the logo because we can't do any advertising anymore (sic)" (anonymous BATA employee, personal

## TRADE MARK PROTECTION

These new pack developments raise interesting questions about exactly how important tobacco companies consider their trade mark images. One of the arguments generated by tobacco companies against cigarette pack health warnings is that these warnings would violate their trade marks and pack imagery. For example, in 1995, British American Tobacco included packaging as one of a series of key issues for the company. In a summary document, the company specified that its objectives were "to minimise the damage to the Group's most valuable assets, trademarks, pack design" and "to neutralise the controversy over pack warning labels".<sup>11</sup> The issue paper explained that "pictorial warnings, and those occupying a major pack face or faces (front and back) or a disproportionately large area of advertising space, should be restricted, as should moves to plain or generic packs. Every effort should be made to protect the integrity of the company's

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**Figure 1** The standard Benson and Hedges 25s pack (left column), and two packs with altered BATA crests, “Flying” and “Diving” (middle and right columns, pack view and trade mark close-up).

packs and trade marks”.<sup>11</sup> Again, in 1992, Philip Morris’ then president, William Murray, wrote “as an Australian” to New South Wales premier Nick Greiner requesting that Greiner bring “a sense of balance and common sense back into the regulation of tobacco in Australia”.<sup>12</sup> Murray lamented that “the proposed warnings, while offered in the guise of providing information, are in fact an abusive and punitive defacement of a legal product”.<sup>12</sup>

The use of varied images on the pack by BATA that effectively disrupt their own trade mark shows that the company does not in fact hold its trade mark as sacred as has previously been expressed. As explained in a mini-tutorial in this Philip Morris document:

“Cigarettes, like all other packaged consumer goods, bear trademarks. A trade mark can be a colour, a series of colours, a device, a word, or a combination of any of them. A trade mark is a primary means by which information is imparted to the consumer. It is a means by which one product is distinguished from a multiplicity of competing products (each with its own trade marks) and is a normal marketing tool to retain or expand market share. By performing this function, trade marks become valuable assets protected by law from infringement or imitation.”<sup>13</sup>



**Figure 2** Winfield 25 Super Mild packs—back of a regular pack (left) and back of a pack with advertising image (right).



**Figure 3** Winfield Super Mild 25’s—regular top of pack (top) and modified top of pack (bottom).

It would seem, however, from the pack examples we have found, that the companies themselves do not mind changing their trade marks when it suits them. Tobacco advocates might keep this example in mind the next time a policy is proposed to strengthen pack health warnings or introduce plain packaging.

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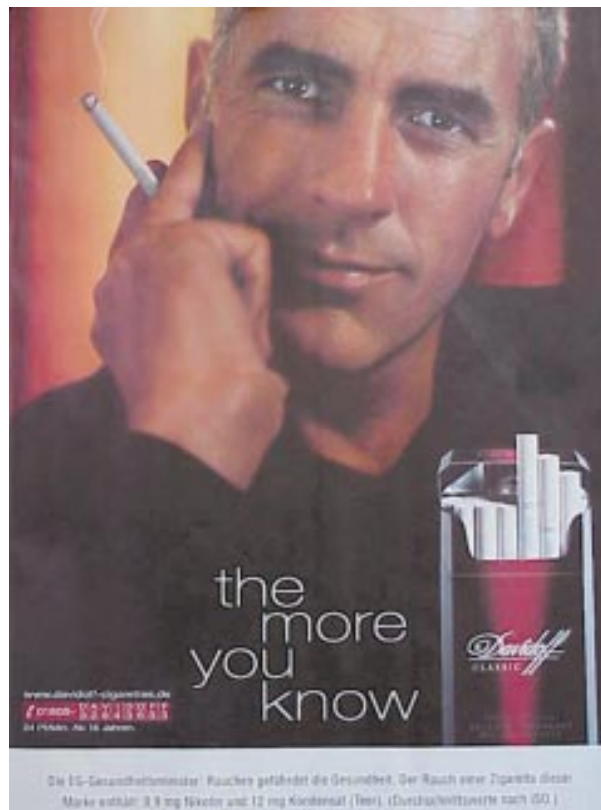
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A man who looks for all intents and purposes like George Clooney lends a hand to promote the lung cancer epidemic in Germany. Contributed by John Elder, San Diego.