

# News analysis

## Australia: epidemiology classes, shredding, and calls to "the garbageman": a day in the life of tobacco folk

Tobacco control advocates who are sick of people in high places manipulating and distorting the truth, and then hiding behind "spin doctors" or others who try to cover up their actions, may be a little surprised to find just who they can now number among their friends. The latest recruits to this discerning person's sick bay include John Basil William St Vincent Welch, who in another age might have been the hero of a Victorian cautionary tale for children, but is actually the former chief executive officer of the Tobacco Institute of Australia (TIA).

Earlier this year, Mr Welch testified in a court hearing held as part of the US government's anti-racketeering litigation against tobacco companies. Now a self employed industrial relations consultant, Mr Welch has followed a varied career path. He worked for Nestlé, a metal trades organisation, the industrial secretariat of the Australian oil industry, and even the Australian Medical Association, before joining TIA in January 1991. He served there until the end of April the following year, but that relatively short time was a busy one. Among the topics he had to deal with, constantly liaising with the heads of the member tobacco companies, their lawyers and public affairs people, was the burgeoning issue of passive smoking, which was rightly perceived by the tobacco industry as a major threat to its future.

Perhaps this daily liaison, especially involving policies that Mr Welch may have been instructed to handle in a significantly different way than comparable policies he encountered in his previous jobs, contributed to some disillusionment. Take document retention, for example. Quizzed by lawyers for the US government about TIA's policy, Welch said, "The document retention policy was two-fold. First, when we were in receipt of documents that were potentially damaging to the industry and/or the member companies, once they'd been read they were to be

destroyed. Second, where there were documents that were favourable to the industry's position, and not potentially damaging, once having been read, to retain them."

What was the purpose of the policy? "At the time that I was the TIA's CEO, there was a great deal of pressure on the industry from anti-smoking organisations and concerns about lawsuits. The primary purpose of the [policy] was to keep documents that were potentially damaging to the member companies or the TIA out of litigation and out of the hands of those that could use the information to attack the industry. The view was, why leave a loaded gun on the table that could be used against you? The [policy] was primarily a document destruction policy designed to make sure that potential 'guns' were destroyed. The name 'Document Retention Policy' was a misnomer. Its purpose was to minimise the TIA library."

By contrast, he said later, document retention policy at the Australian Medical Association had been to keep everything, as had been the policy at the oil industry secretariat. But at TIA, destruction seems to have been commonplace. "Some documents from the member companies would explicitly say 'read and destroy', so those would simply be shredded after reading. All drafts of correspondence and documents were destroyed... There also would be occasions where I would get instructions from a member company to determine whether the TIA possessed a certain document, and if so, to destroy it." The primary factor in determining whether or not a specific document should be destroyed was whether the document would be damaging in litigation positions, legislative positions, or public affairs positions.

Apart from documents specifically marked "read and destroy", Mr Welch told the court, the largest class of documents destroyed under the policy were scientific documents considered potentially harmful to the member companies, including those addressing whether or not smoking or passive



John Welch, former chief executive officer of the Tobacco Institute of Australia.

smoking caused disease, and whether or not nicotine was addictive. Interestingly, the scientific reports or studies that were destroyed, apart from internal company documents, included external, public documents available outside the confines of the member companies, but often these had sensitive notations or handwritten notes on them that were considered potentially dangerous, therefore requiring destruction. In addition, it was considered imprudent for TIA to be in possession of potentially dangerous documents.

Mr Welch confirmed not only that most of the scientific documents that were destroyed came from overseas affiliates or parent companies of TIA's members, but also that correspondence bearing instructions "read and destroy" was received frequently. "There were two shredders in the office and as you received mail it would frequently be shredded after being read and/or circulated in-house... Documents were destroyed on a daily basis." So we have a picture of busy shredders earning their keep just about every day; however, some of the industry's activities were more creative, such as tobacco industry scientific research.

"The commissioning of certain research was a subject of monthly TIA meetings that included each of the member companies." But scientists from member companies did not attend monthly TIA meetings. Why? "The basis for commissioning the scientific studies discussed at TIA meetings was not science, it was litigation, legislation, or public affairs concerns. Whenever any scientific report was published that was

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negative for the industry, it was standard practice that the member companies would immediately seek to hire a scientist who would do research or a study that would produce a result that was favourable to the industry. If the anti-industry research said 'white' the member companies would contract for a report that said 'black.'"

Asked to elaborate on the choice of scientists, Mr Welch explained that discussions would be held as to the desired outcomes, and what research result would be beneficial to the industry. Then the companies would talk about whether they knew a scientist or scientists who could be counted upon to produce the result desired by the industry: "Why would a company fund research that confirmed a bad result?"

As he had already said he was not a scientist, Mr Welch was asked at this stage whether he had received any scientific training on smoking and health issues while at the TIA. It turned out that Glenn Eggleton, a solicitor for one of the tobacco industry's law firms, Clayton Utz, taught a mini-course on epidemiology to certain members of the TIA. Mr Welch had attended such a



**Israel: outrage at new cigarette ad** The Zarmon-Goldman advertising agency recently courted fresh controversy—and official complaints based on tobacco control regulations—when it ran a series of advertisements for Kiss cigarettes showing packs of Kiss cut out to resemble people in sexually explicit poses. The same agency that ran the "Twin Towers" ads shown in the last issue (*Tobacco Control* 2005;14:3), which were taken down after mounting complaints, defended its choice of the images by direct reference to the youth market they were clearly aimed at. Eilon Zarmon, non-smoking owner of the agency, said, "The age at which people start smoking is between 15 and a half and 25. True, one may now not sell cigarettes to minors. But during this target age, people discover their sexuality."

course one morning a week for a number of weeks. Those attending were given materials as part of the course, but were always required to return the materials to Mr Eggleton, not being permitted to take them outside the room. Did he find this requirement unusual? "Yes. However, it was consistent with the member companies' concerns regarding the dissemination of potentially damaging documents."

Meanwhile, even more unusual activities were afoot to protect the industry, which was under increasing pressure from potential litigation and by anti-smoking organisations. "The flip side of destroying our own documents was to try to acquire documents held by the anti-smoking organisations." How did TIA do that? "As the anti-smoking organisations were not as careful as the industry about getting rid of documents, the TIA paid individuals to go through the dumpsters and rubbish of antismoking organisations in order to find any potentially relevant documents relating to their plans or their funding." TIA employees themselves did not go through the anti-smoking trash, but contracted with a private inquiry agent, Winston Gregory & Associates, who employed a number of individuals who would go through the anti-smoking organisations' garbage. "Mr Michael Rigo was one such person—Mr Rigo was nicknamed 'the garbageman.'" The organisations included the New South Wales Cancer Council and the Heart Foundation.

During Mr Welch's time at TIA, member companies included WD & HO Wills, the Australian subsidiary of British American Tobacco (BAT). The activities revealed in Welch's testimony were clearly known to senior officers of the member companies, yet BAT Australia's social report for 2003/4 loftily proclaimed, "The principle of Good Corporate Conduct is the basis on which all our businesses should be managed. Business success brings with it an obligation for high standards of behaviour and integrity in everything we do and wherever we operate. These standards should not be compromised for the sake of results."

Mr Welch, at least, seemed to notice the discrepancy between theory and practice, and became disillusioned. Thus, when asked why he voluntarily testified before the US court, he replied, "As I said before, I am sick of people in high places manipulating and distorting the truth, and then hiding behind 'spin doctors' or others who try to cover up their actions. There was a document retention policy and its purpose was to keep damaging documents out of the courts and out of the public. When the

United States department of justice asked me to testify about it, I agreed."

## Hungary: BAT university deal questioned

Hungarian health advocates have been shocked to learn that the roots put down in their country by BAT go even deeper than they previously suspected. It was already well known that BAT dominated commercial life in the southern city of Pécs, where it bought its way into a commanding position in central Europe by snapping up a major tobacco production plant after Hungary moved to a market economy. BAT had also not been shy to publicise its sponsorship of many parts of the local infrastructure, from the local theatre to a health clinic, and even a homeless person's hostel with the unobtrusive name of BAT Ház (BAT House). Not surprisingly, BAT enjoys loyal support from civic leaders who fail to understand the poisonous longer term effects of such support on the health of the people whose interests they represent, with even some doctors shrugging off the association as, on balance, something to be grateful for.

In December, it emerged that BAT has wormed its way much deeper into the woodwork of Hungarian society, by greatly strengthening its sponsorship of the old and highly respected university of Pécs, the second largest in the country. BAT was described in news reports as having become the principal sponsor of the university: there was already a "collaboration agreement", dating from six years ago, but last September BAT increased its funding substantially. New arrangements included the election of Pauline Stam, a director of BAT Hungary since January 2004, as one of the university's "social senators", followed by the award of special "BAT Professors' Scholarships", worth US\$2500, to five professors, three of them from the medical faculty. With a slight whiff of cosiness, it emerged that two of the lucky recipients are brothers, and two others are married to each other. In addition, a research group in the arts faculty is reportedly starting a large research project against youth smoking sponsored by BAT, in addition to a similar project, also BAT funded, in the medical faculty.

Hungarian health workers launched an information campaign to highlight the legislative loophole which allows sponsorship of government maintained agencies by tobacco companies—while the law bans direct and indirect tobacco advertising, only sports sponsorship by tobacco companies is banned (except for





BAT Ház (BAT House), a homeless persons hostel in Pécs, Hungary sponsored by British American Tobacco.

the Hungarian Formula One motor race).

In a sad reversal of how things might have been in the past, the student movement, whose leaders once would have had an above average awareness of the way power was wielded over ordinary people by small but powerful, unelected minorities pursuing their own interests, seemed unconcerned. The head of the university students' association even told a local newspaper reporter that he welcomed BAT's sponsorship. One of the professors in the medical faculty gave a quick but telling response when questioned about accepting the BAT money: taking strong exception to the question, he simply put the phone down. But people in the university rector's office took a more measured approach: they were, they said, ready to discuss the issue with health advocates.

A letter outlining health concerns was duly sent to the rector, though at the time of going to press no reply had been received. However, there were some hopeful signs that the university authorities had already begun to realise that this level of association with BAT might involve too great a risk of damaging the university's reputation, and in particular the credibility of the medical faculty, however chilly the prevailing funding climate might be.

The health ministry has been working behind the scenes with university officials, putting broadly the same line as health advocates had taken, making it plain that collaboration with BAT is undesirable. University authorities were said to be planning to re-open discussions with BAT about the funding, while significant changes had already been

made to the university's website. No reference to BAT can now be found on the site, even in the section on sponsors, where last year its name appeared at the top of the list. A link to BAT's own website, and a short presentation about BAT itself, previously on the university website, have also been removed.

BAT continues to be a very active sponsor of social establishments and cultural events in Pécs, but perhaps the university deal will backfire. Those in any doubt about why tobacco companies do this sort of thing have only to ask themselves: what value will BAT's shareholders get in return for their money being used this way? Whatever answers they come up with, they have to be bad for the future health of Hungarians. When the university authorities reflect on this, they will realise that taking tobacco money is a reckless risk of the reputation of a highly venerated, centuries old seat of academic excellence; when tobacco money is offered, reputation is beyond price.

## Spain: sweet smoking initiation?

Things are changing in Spain. The prevalence of tobacco smoking, both sexes combined, has steadily decreased during the last 20 years; the real price of tobacco has increased in the last 10 years; a new national plan for prevention and control of smoking was approved more than one year ago; and new and strong legislation to protect non-smokers in public and private places (including bars and restaurants) and workplaces is to be launched.

However, a number of unhealthy practices continue. In addition to the Spanish custom of giving guests special cigarette gift boxes at wedding meals (Spain: wedded to tobacco. *Tobacco Control* 2001;10:305), another unhealthy tradition persists.

Almost all Spanish smokers remember their first cigarette (and former smokers even remember their last one...). Even those who have never smoked tobacco remember their first cigarette, even though it was smokeless—not a real tobacco cigarette, but a chocolate one.

The past half century has left virtually untouched the sale of chocolate cigarettes, sold nowadays in some supermarkets and party shops, and, as the photograph shows, in Christmas street markets. Imitation packs of cigarettes can be found in sweet (candy) market stalls, such as the red and white "Western" modelled on the well known RJ Reynolds brand, or the blue and white "Dulces" (meaning sweets) for one of the best selling brands of Spanish black tobacco from Altadis, sharing space with chocolate "Looney Toons", bees, and angels. Moreover, year after year, in the Christmas' season, these chocolate cigarettes magically arrive in many households accompanying the gifts brought by the three kings of the Christian scriptures—the Three Wise Men—who are the season's traditional gift givers in Spain (on 5 January), or, alternatively, by Santa Claus (24 December). Spain continues to be different.

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Chocolate cigarettes are still widely sold in Spain.

## Italy: holy smoke! Pope swerves off track for Marlboro

Around a billion people in the world are Catholics. Large numbers are found in South America, and in developing countries in other parts of the world. So as with other important issues, if the Pope and other senior officials of the catholic church were to take a strong lead on tobacco, it would deal a serious blow to the big tobacco companies, hitting them hardest in some of the very places where they are recruiting vast numbers of new smokers, including some of the fastest growing youth populations in the world.

Two events around the end of last year show that if the Catholic church develops a serious policy on smoking, Philip Morris, at least, will not take it lying down. In late December, as Catholics the world over tune in more attentively to the Christmas spirit, and perhaps pay more heed to the teachings of the church (the Pope's Christmas message is one the world's most widely broadcast events), an interesting news item was reported worldwide.

First, a clear signal was given by the Vatican, the mini-state set in the heart of Rome, capital of Italy, which is home to the Pope and headquarters of the Catholic church, that it may be

considering a leading role in the world campaign against smoking. An article in an authoritative Catholic publication, the Jesuit review *Civiltà Cattolica*, which observers say would have been written with the clear knowledge and endorsement of the Pope's most senior aides, declared that smokers cannot damage their own health and that of others "without moral responsibility". Whereas the most striking theme of the Pope's work has been respect for human life, the Catholic church as a body had not focused previously on the scientific evidence on smoking and disease. But the article, by Father Giuseppe De Rosa, openly entered the scientific arena, specifically mentioning the dangers to unborn children, with effects lasting throughout their lives. It even acknowledged addiction, when referring to some women being unable to stop smoking even when pregnant, in which case, said Father De Rosa, the addiction lessened their moral responsibility.

While stopping short of classifying smoking as a sin, the article nevertheless described it as "not neutral either in social or indeed moral terms". Father De Rosa has clearly pushed Catholic thinking well beyond past church pronouncements, which said only that the virtue of temperance should dispose Catholics to avoid every

kind of "excess", with tobacco being mentioned along with food, alcohol and "medicines", presumably meaning drugs. The article came just as Italy was preparing for the introduction of the new law banning smoking in public places, a development as ground breaking as the lead taken by another European Catholic country, Ireland, just nine months earlier.

The second event received far more publicity around the world. In mid January, the Marlboro Formula One motor racing team was granted an audience with the Pope, who was presented with a magnificent fifth scale model of a Marlboro emblazoned car by the team's top driver, Michael Schumacher. The Pope paid tribute to the spirit and enthusiasm of the Marlboro Ferrari team, and endorsed the importance of sport in society, stressing the role of sport in education, "especially for the young generation", the very people Marlboro's marketing men would hate to see discouraged from smoking, especially by the Pope.

The timetable of the request for the audience with the Pope, and the strings pulled to secure it, are unknown. Normally such a privilege is the result of protracted negotiations and nimble footwork on the dance floor of diplomatic protocol, but whenever it was begun, the ensuing event cannot be a mere coincidence. What is more important is whether the move signalled by Father De Rosa's article is followed through, to the certain advantage of the health of some of the world's most disadvantaged people, or whether, yet again, it will just be business as usual for the tobacco industry.

## Canada: point of sale win – again

The story so far: Rothmans Benson & Hedges (RBH), Canadian subsidiary of BAT, took legal action in 2002 to try to get back the "power wall" displays of cigarette packs that had just been banned in the province of Saskatchewan. But luckily, Saskatchewan had an excellent health minister, who said, "Our legislation must be working if this tobacco company is suing us... [we] will defend the Tobacco Control Act from this attack" (Canada: demolishing the power walls. *Tobacco Control* 2003;12: 7-8). At last, that vigorous defence has paid off.

The RBH action was initially dismissed, but the company appealed on the basis that the province's law conflicted with federal law. In September 2003, the Saskatchewan Court of Appeal reversed the earlier judgement, so declaring inoperative the provision



Pictures of the Marlboro Formula One motor racing team's audience with the Pope, like this one from a Belgian newspaper, were carried all over the world by news media. *De Standaard*.





A “power wall” display of cigarettes, used as a marketing ploy in Canada.

prohibiting the visible display of tobacco products. The government of Saskatchewan then appealed to the county's top court, the Supreme Court of Canada. Supporting Saskatchewan was the federal government and five other provinces, as well as national health organisations working against tobacco's big diseases—cancer, stroke, heart and lung disease, and the medical association.

The appeal hearing took place on 19 January this year, which happened to be “Weedless Wednesday” in Ontario's National Non-Smoking Week, whose theme was ‘Out of sight – Out of mind’, a reference to a retail display ban being promoted by Ontario health groups. Students and health advocates were staging a protest in front of the Supreme Court even as the nine judges hearing the case asked to hear from RBH, and questioned its lawyers. The judges did not seem pleased with the answers they got, and took only a 15 minute recess before returning to say it would not be necessary to hear from the appellant, or from other parties who might want to join the suit. They had unanimously decided that the appeal

was allowed. The entire procedure had taken only 90 minutes—usually Supreme Court decisions take around six months.

So the law banning point of sale displays in any premises accessible to children under 18 is once again in force in Saskatchewan. Other provinces are also free to enact their own bans. Manitoba and Nunavut, the large, mainly Inuit populated northern territory, which already have similar laws, delayed their implementation pending the outcome of the Saskatchewan case, so are expected to put them into practice. There is now a real chance that before too long, the whole of Canada will be free of major cigarette pack displays.

## UK: progress markers? A piece of cake

Spotted at a health related press launch in Westminster recently was Sir George Young, a member of parliament who in 1981 suffered an “acute myocardial infarction”. As experienced tobacco control advocates will know, this sudden

cutting-off of political power often afflicts good health ministers who take a strong line on tobacco. It is named after an early victim, US health secretary Joe Califano, who was sacked amid a fury of tobacco industry outrage after making clear to a delighted world conference on tobacco and health in 1979 that he meant business on tobacco control.

Sir George's own event struck soon after he had secured permission from his cabinet level boss to initiate legislation if the tobacco companies, with which he had been forced into fruitless “voluntary agreement” negotiations, did not agree significant reductions on promotion. The night he was moved to a much less important post in the department of the environment, when asked what his new responsibilities were, a disgruntled Sir George replied, “I seem to be in charge of the government car pool”. Nowadays in opposition, but still manifestly concerned about preventive health measures, Sir George surveyed the changes over the near quarter century since he left the health department.

The UK, while slow on taking action on smoking in public places, has seen a rate of decline of lung cancer mortality, that crude but most direct of markers, second only to Finland. But Sir George recalled another crude marker seen along the way, 10 years ago, when he attended the 80th birthday party of his former constituent Dr Keith Ball, for many years chairman of Action on Smoking and Health.

A magnificent birthday cake was brought in, and Dr Ball prepared himself to attempt the heroic feat of blowing out all the candles. But in a large room full of friends and former colleagues, not a single guest had a match or lighter. Luckily, said Sir George, someone had the presence of mind to run to a nearby hospital ward to beg one from a porter or nurse, though he hopes that not even they will be able to produce one at Dr Ball's 90th, later this year.