News analysis

WORLD: NEW TOBACCO PANDEMIC

In the past few months, there have been outbreaks of a specific tobacco-related public health problem in many countries around the world, apparently in more virulent and concentrated form than has ever been observed before. It manifests as the forceful misrepresentation of arguments against increased tobacco tax. Symptoms include the use of front groups, often posing as quasi-academic research organisations; bogus statistical data gained by hand-picking convenient numbers from apparently solid sources; new data generated from poor quality surveys, sometimes using shamefully biased leading questions; and most consistently, vastly magnified and scary images of the dreaded spectre of smuggling. In addition, campaigns have included many other sophistries familiar from more than half a century of desperate, last ditch campaigns to resist the most immediately effective component of tobacco control policy.

Some detailed examples appear below; they represent only a sample of those seen worldwide in recent months. Why now? Is it just because a new year always heralds new budget planning by finance ministers, with tobacco taxation as one of the big earners high on the list for review? Or does the upcoming formulation of a draft protocol on illicit trade under the WHO's Framework Convention on Tobacco Control (FCTC) explain it? The consistency of the industry's concentration on illicit trade in its propaganda suggests that it may be the latter, despite documented tobacco company complicity with international smuggling gangs. But other tired arguments have been appearing, too, including one of the most distasteful of all, the industry's professed concerns over smokers suffering disease from the poor 'quality' of forged or smuggled cigarettes.

Employment threats still feature in some of these campaigns, too, with dire forecasts of mass job losses if tobacco sales fall, though tobacco apologists seem to forget this when they claim that previous tax rises have not affected consumption. In Romania, Philip Morris went one better on the employment argument: it closed its factory for two weeks in February, blaming a decline in 'legal cigarette sales', coupled with (in case politicians had not understood the give-away adjective) an increase in smuggling. The fact that some of the multinational tobacco companies are reportedly ready to abide by a smuggling protocol is at first sight worrying; but it may be that they want protection from counterfeit products. Most of all, if there's to be an effective protocol, they will want to be included, to be as much in control as possible.

The inclusion of tobacco tax increases as an essential ingredient of tobacco control policy under the FCTC was a major blow for the industry. Promotion and public places are mostly lost; but those areas of policy, once in place and enforced, can go no further. The big difference with tax is that there is no recommended level or period. So in theory, at least, the price can be made to go on rising indefinitely through regular tax increases, at least so long as governments find it economically fruitful. And as it rises, of course, people continue to quit.

All articles written by David Simpson unless otherwise attributed. Ideas and items for News Analysis should be sent to: d.simpson@iath.org

NEW ZEALAND: INDUSTRY'S FALSE TAX CLAIMS EXPOSED

New Zealand's tobacco industry has been ramping up its scaremongering campaign about smuggling. Claims that 'smuggling will increase' are being used frequently as reasons to oppose tobacco control legislation.

Smuggling is a misunderstood issue in New Zealand. The tobacco market is small compared to many other countries, and the country is geographically isolated down in the south Pacific. Historically, there has been little competition in the domestic tobacco market, with one company, British American Tobacco (BAT) holding a 75 per cent share of the market. The result is a low level of tobacco smuggling, with non-duty paid tobacco representing a very minor portion of the tobacco smoked.

A recent study of 1310 discarded cigarette packs found that only 42 were non-duty-paid foreign packs (Wilson GT *et al* Estimating missed government tax revenue from foreign tobacco: survey of discarded cigarette packs. *Tobacco Control* 2009;**18**:416–9). At around three per cent of all packs, the figure was backed up by survey data showing that 3.8 per cent of New Zealand smokers cited duty free as the source of their tobacco.

Despite this relatively low level of illicit tobacco trade, the tobacco industry has both exaggerated the impact, and used the threat of organised crime and smuggling to try to block public health legislation. In addition, while traditionally the industry has used the smuggling argument to undermine tax increases in New Zealand, more recently it has also used it to try to block a ban on tobacco retail displays.

In August 2009, ASH New Zealand picked up a media release from the New Zealand Association of Convenience Stores (NZACS), a group funded by BAT and Imperial tobacco. NZACS was claiming that retailers feared increased smuggling as a result of a tobacco display ban. The claim was based on a study carried out by the UK Tobacco Retailers Alliance, another industry-funded group. The study had asked members of the Tobacco Retailers Alliance whether they were worried about an increase in smuggling that would occur as a result of banning tobacco displays. The British study, using biased questions that played on existing fears to get the desired results, was based on retailers in a country where illicit trade is estimated to be as high as 20 per cent of tobacco smoked—a very different situation than that in New Zealand.

Statistics from the NZ Customs Service were used to back up the smuggling claims with NZACS referring to data showing that 67 937 cigarettes, and 20 222 g of loose tobacco were seized in one month and this figure was increasing.

Not only were these claims untrue, but they were purposefully presented out of context with the intention to deceive and whip up fears. To put illicit trade into context, in 2008, tobacco companies released 2.5 billion cigarettes for sale in New Zealand. Even if 67 937 cigarettes were seized monthly, there would be only 815 000 seized per year. This would still be less than 0.03 per cent of the cigarettes in New Zealand, only enough cigarettes to supply 200 smokers for a year.

NZACS also claimed that customs data showed that illicit trade was on the increase. Despite the NZACS release being issued in August, it was using February data. All became clear when ASH investigated the customs data being quoted. 67 937 cigarettes had been seized in February, yet in January, March, April and May this figure was considerably lower.

The story is a classic case of industry scare-mongering by using selective and out of context statistics and irrelevant international surveys to mislead. As ASH managed to pick up the NZACS story early on, action was taken to expose its flaws. A media release refuting the smuggling claims and pointing out the exaggerated claims was drafted and issued within half a day. The goal was to ensure that the correct facts

New Zealand: even the small amount of remaining promotional opportunities via cigarette packs will all but disappear if proposals to ban retail displays go ahead.

around banning retail displays were published, and to expose NZACS as an industry propaganda group.

The story that ran in *The New Zealand Herald* was headlined 'Link between tobacco display and smuggling disputed' and focused on how the NZACS was distorting the facts with tobacco industry funded research. ASH successfully undermined the industry-led smuggling story, and an indication of its success came in the form of a mobile telephone text message sent to ASH's director from NZACS's media contractor, a former BAT employee, who accused ASH of spinning the truth!

The tobacco industry in New Zealand continues to use the threat of increased smuggling to oppose retail display bans, tax increases and future tobacco control improvements including plain packaging and supply controls. Imperial Tobacco's and BAT's submissions to a parliamentary committee investigating the impact of tobacco on indigenous Māori people have both used smuggling as an excuse not to legislate on tobacco. Obviously, tobacco smuggling is a legitimate concern; however, it is important for tobacco control advocates to ensure that these concerns are presented honestly and realistically. Not only is this a strategy to ensure that smuggling is dealt with in context, but also to expose tobacco industry deception.

BEN YOUDAN
ASH New Zealand
byoudan@ash.org.nz

MICHAEL COLHOUN
ASH New Zealand

AUSTRALIA: BAT'S TAX FIGURES DO NOT ADD UP

With mounting concern in the international tobacco industry about proposals for plain packaging and big tobacco tax rises, Australia's tobacco industry is having a major attack of the vapours following recommendations made by the Australian government's Preventive [sic] Health Task Force in 2009. Its chief concerns are a proposal to push the price of a pack of cigarettes to $A20 (US$18) in two tax increases, bringing Australia into line with UK and Irish prices, but still around $A3 behind Norway. The other would see the local industry internationally humiliated as being the first anywhere in the world to have to sell cigarettes in plain boxes with only the brand name to differentiate the products—just like prescribed drugs have always been packaged. Local management personnel don't want that blight on their CVs.

The bogeyman of a booming black market in tobacco is the frontline of its attack on the tax rise. BAT got out of the blocks in February, releasing a report commissioned from international accountancy firm Price Waterhouse Coopers (PWC) on the use of illegal, tax-avoiding tobacco. BAT thinks tobacco products are already outrageously expensive because smokers are already turning into criminals and buying hot goods from … well, just about everywhere tobacco is sold. So much, in fact, that $A624 million in tobacco tax is being avoided, they say.

From the PWC report, we learn that half of smokers are aware of illegal tobacco and according to a study commissioned by BAT, half of these (ie, 25 per cent of all smokers) have purchased it. So if you believe the report, 12.3 per cent of all tobacco now consumed in Australia is illegally purchased: about one in eight cigarettes and roll-your-owns. Let's pause and get this in perspective. Globally, an upper limit of 8.5 per cent of tobacco sold is estimated to be black market, but most of this occurs in nations with high corruption indexes like most of Africa and the former Soviet states. Amazingly, BAT is saying that the borderless Australia is in that league.

Contrast this with findings of the 2007 national government tobacco survey, (amazingly, not compared or even referenced by PWC) which found that, while 8.7 per cent of adult Australians had *ever* smoked unbranded, only 0.2 per cent of the population (around 33 000 people) used it more than half the time.

A core claim of the PWC report is that loose 'chop-chop' tobacco constitutes 83 per cent of the total volume of illegal tobacco sold (the rest being counterfeit or smuggled), and yet only two per cent of smokers in this survey regularly bought chop-chop. The report fails to specify the average amounts purchased by smokers who purchased at varying levels of regularity, but at an estimated total of 2 119 000 kgs per year, this would have to require astronomical levels of consumption of illicit tobacco by these 70 000 or so smokers.

Now, with $A624 million going missing each year, we might assume that this news would have caused considerable interest in Canberra since a similar tale was told in a 2007 report, oddly cloaked in the same nationalistic pleas to hold taxes down for the benefit of Australia's treasury (and no mention of what BAT might project in increased sales from lower tax). So the obvious question to ask is this: if every fourth smoker has bought hot tobacco – mostly from suburban tobacconists and markets, with nearly 10 per cent buying from supermarkets – then why aren't these places swarming with plain clothes federal police, daily busting what must be hundreds if not thousands of these tax-evading, bold-as-brass illegal suppliers? Don't think the customers are street savvy young people experienced in looking over their shoulders as their buy illicit drugs. The report assures us they are mostly low income, older males, notoriously difficult for federal police to simulate in their investigations.

So why is finding and charging these places beyond the wit of the federal police? For the simple reason that it's nearly all total nonsense. The clues to this are not hard to find. Significantly, nowhere in the report is there any data on how many people were interviewed for this 'survey', how they were recruited, what the refusal rate was, what questions were asked or what the characteristics of the sample were.

Imagine a stranger 'phoning or coming to your door and asking whether you regularly purchased illegal tobacco. "Sure, what would you like to know? I'm not in the least bit worried about what might follow from such disclosures." But the reliability of the answers would be poor for a far more fundamental reason. Counterfeit or illegal brands are often indistinguishable from the real thing. And it's not that they might taste different: it's been known for decades that many smokers can't even tell their own brands when the pack is blinded.

Asking smokers to tell you if the pack they have is legal or illegal is simply useless. The gold standard used in studies estimating use of illegal tobacco involves highly detailed checking of the pack by skilled counterfeiting specialists and analysis of the tobacco to compare it to local blends to look for often large differences. The study seems blissfully unaware of these basic problems.

Comparable to the owners of the White Star Line expressing concern that the Titanic passengers might get splinters from the handrails, the report is full of feigned horror at the extra health risks like inhaling mould that illegal tobacco might contain: 'These cigarettes labelled with fake branding pose health risks to consumers as production facilities are unregulated and do not have to adhere to the strict production standards which licensed manufacturers follow.' Remember, these are the same strict production standards that allow cigarettes to walk out the factory door oozing with over 60 known carcinogens and which will kill half of long term users when used according to the manufacturers' intentions.

Another hint of the quality of the information is found when, without blinking, the report notes that 13 per cent of illegal purchasers said they would increase their illegal purchases if laws went ahead (as they have) to require retailers to cover pack displays. Try and figure that one out.

The amateurishness of this report is jaw-dropping. If a student was to hand in an assignment of this standard, I would fail it badly. That BAT was prepared to actually release this nonsense speaks volumes about its public affairs quality control. As far back as 1994, an Australian executive search firm told the *Financial Review*, "I don't think there's any doubt that it's harder to get enthusiasm for tobacco companies. There is a trend. If you have 10 qualified candidates and you tell them it's a tobacco company, five might say they don't want the job." Sixteen years later it looks as though the odds may have lengthened considerably.

SIMON CHAPMAN
Sydney, Australia
simon.chapman@sydney.edu.au

HONG KONG, CHINA: TAX TRICKS GALORE

Hong Kong, China (HK) went for more than eight years without increasing tobacco tax, partly because its thriving economy simply did not need the extra revenue, but undoubtedly also partly due to intensive and persistent lobbying by tobacco interests. When at last a rise was announced last year, it must have come as a nasty shock to the industry—it was 50 per cent (see Hong Kong, China: tax rise at last. *Tobacco Control* 2009;**18**:164–5). The big tobacco companies then hiked up the price to counteract the loss of profits from the large decrease in duty-paid sales they knew would result.

Nevertheless, tobacco companies saw a red warning light and in January this year, about a month before the annual budget announcements, a rash of pro-tobacco public relations stunts began to appear in news media. Some could not be traced with certainty, but others were the work of a previously little-noticed foundation called the Lion Rock Institute, whose mission includes supporting 'libertarian' free trade and protecting the people of HK from 'creeping socialism'. Lion Rock, purportedly independent, has acknowledged that it is 'supported' by funding from the Atlas Economic Research Foundation of the USA, a free-market think tank which supports country level institutes like Lion Rock in many countries around the world. Atlas has acknowledged substantial tobacco industry funding.

Lion Rock's case for HK's finance minister not to put up tax again was expressed in a policy paper entitled, 'Failed tobacco tax sees hopes go up in smoke', purportedly based on official data. It was written or at least defended by a member of staff apparently barely out of college, but willing to debate with experts with considerable knowledge of the local tobacco tax situation. It appeared in *The Standard*, a tobacco-friendly daily newspaper owned by a local tobacco company boss, and on Lion Rock's website. Its main points were repeatedly regurgitated in various media, including radio appearances. One of these was on an English language radio programme moderated by none other than the young staff person's boss at Lion Rock. Despite numerous requests, Lion Rock did not respond to requests that it confirm whether tobacco industry funding was taken for the work in question.

Perhaps more serious were the many newspaper articles pegged on Lion Rock's paper, all of them virtually presenting a certainty that the finance minister could not possibly raise tax again, as last year's 50 per cent rise had been a disaster in terms of increasing the sales of smuggled cigarettes and denting revenue. Many articles either reported or inferred that duty-paid cigarette sales were up, not down; and some even took a hand in it themselves, no doubt aided by tobacco-friendly public relations nonsense, including concerns that the increasing numbers of smokers forced to buy counterfeit cigarettes may be exposing themselves to even more damage than from legitimate products. One even wrote that laboratory tests showed Chinese counterfeit cigarettes, in addition to higher nicotine and carbon monoxide than brand name cigarettes, 'contain impurities that include insect eggs and human faeces.'

It must have been obvious from the start to the very people that the report was trying to influence that it was, quite simply, rubbish. The HK government learned some years ago that increased smuggling requires increased enforcement. As a result, there have been significantly more customs officers deployed to tobacco anti-smuggling work, resulting in increased numbers of smuggling cases and arrests—but the quantities being seized have been falling. So the total number of cigarettes seized has not risen since last year, but fallen significantly. In the words of a departmental official, "Evidently, our stringent enforcement has cornered the culprits to scale down their operation."

In addition, claims that the tax rise had not affected consumption, and that the finance minister must be out of pocket, are the opposite of the truth. After last year's tax rise, sales of duty paid cigarettes decreased by more than 30 per cent, and a study by the University of Hong Kong showed that the number of young people calling its quit-smoking hotline jumped by 111 per cent after the increase. As for government tobacco excise revenue, that did not fall, but rose, by two per cent. It came as small surprise, though nevertheless as a bitter disappointment to public health organisations, that a strenuous rebuttal of the false claims went largely unreported. Even an open letter to the government by a raft of blue chip names failed to get any mention at all.

The finance minister duly announced no change in tobacco duty, referring to last year's rise as if it were sufficient to raise tobacco tax only once in a while. However, he did abolish duty free tobacco concessions, and publicly acknowledged that HK tobacco duty accounted for only about 60 per cent of the retail price of cigarettes, rather than the 75 per cent recommended by the World Health Organization. Overall, though, the budget was

Djibouti: one of Djibouti's arresting new pictorial health warnings. This one warns that smoking can lead to a 'slow and painful death.'

a significant victory for the tobacco industry. As to the future, even though the finance and excise departments know what nonsense is peddled by the industry, public health advocates must be far from hopeful of significant change in such an apparently tobacco friendly environment.

DJIBOUTI: QUIT & SAVE MONEY, PACK WARNINGS URGE

Djibouti, a small country of less than one million inhabitants located in the Horn of Africa, at the south-west entrance to the Red Sea, boasts some excellent warnings on tobacco packaging. Last June, packages with newly required pictorial health warnings began to appear on the shelves of retail shops. This represented an important victory for the national government, which had to overcome determined tobacco industry opposition. Ultimately, a series of picture-based messages were decreed, to cover the top 50 per cent of the front (in French) and back (in Arabic) of the package.

Some of the pictorial warnings are extremely powerful. One, showing a man in a hospital bed, was developed in Djibouti itself, with others licensed from Canada, Australia and the European Union.

Djibouti went further, setting several apparent world precedents, showing that small developing nations can lead the way in tobacco control policy. While many countries require only one toxic emission message on the side panel of cigarette packages, and even Thailand requires just two on every package (on the left and right sides), Djibouti is the first country known to have required a rotated series of side panel messages for each brand variation on the market, in addition to rotated messages on the front and/or back. Djibouti requires five bilingual rotated messages to appear in its two principal languages, French on left side panel, and Arabic on the right. Three of these are qualitative messages on toxic emissions (with no ISO yield numbers), and one is on health effects. Of note is that the fifth message, 'Quit smoking, save money!', represents the first time a low income country is known to have required a financial cost message on packages.

This type of financial message may have promise — money is a well-understood motivator for many consumers, including youth. Guidelines on packaging and labelling under Article 11 of the WHO's Framework Convention on Tobacco Control refer specifically to a cost message as one for potential inclusion within a range of messages. Djibouti is leading the way.

ROB CUNNINGHAM
Canadian Cancer Society
rcunning@ottawa.cancer.ca

UGANDA: TOP LEVEL AWARENESS OF INDUSTRY

In the bad old days, international tobacco company bosses would boast how they often sat next to the president of this or that African country at a dinner or conference, thus being able to remind them of tobacco's importance to the economy. The implication—correct, in most cases—was that tobacco still reigned supreme, guaranteeing a future exemption from public health laws that might curb growing and largely unregulated tobacco sales.

Japan: a typical smoking room. Japan has no national smoke-free law, but as demand for smoke-free public places increases, along with disapproval of smoking in public, smoking rooms such as this one in a Nagasaki department store are beginning to appear. The frosted glass at eye level is thought to be designed to protect smokers' privacy, especially that of female smokers. Male smoking rates have been declining for some time, but female rates remain static, with women routinely targeted by tobacco promotion. [Photo: Yuko Kanamori]

How good it was, therefore, to learn that in Uganda, the director general of health services should specifically assure delegates to a tobacco control meeting that his ministry was aware of the activities of this 'powerful enemy', which was well established, continuing to expand, and had many resources. The ministry would be working on counteracting them effectively, representatives from a wide range of professional interests were told at the start of a meeting held as part of the ongoing Africa Tobacco Situational Analysis (ATSA) project.

ATSA, sponsored by the International Development Research Centre of Canada, aims to gather accurate information on tobacco control in selected sub-Saharan African countries, build capacity among African tobacco control researchers, and inform broader development and support of tobacco control strategies in Africa.

BMJ Group, BMA House, Tavistock Square, London, UK

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