News analysis

Australia: in tent to keep them smoking

In an earlier article (*Tobacco Control* 2001;**10**:196–7) Todd Harper described how the tobacco industry has made the move into ''below the line marketing'', including events management and relationship marketing, following bans on most forms of tobacco advertising in Australia.

Following the passage of new and strengthened tobacco control legislation in Western Australia in 2006, point-of-sale advertising is now prohibited and the display of tobacco products is restricted to an area of one square meter inside retail outlets.

Consequently, there is even more pressure on tobacco companies to find innovative ways to promote their product, particularly to teenagers and young adults. In the last few years the tobacco industry has turned its attention to outdoor music events.

The strategy involves ''sponsoring'' popular outdoor music events during the summer months in Western Australia. In exchange for its ''sponsorship'' the tobacco company receives the use of a prime location near the stage for its tent, of which two sides are open, providing an alfresco atmosphere for its ''smoking'' chairs and bean bags. Inside the tent is a dedicated kiosk selling only one brand of cigarettes, staffed by attractive young women eager to engage in conversation with customers.

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While we have not yet sighted the ''sponsorship'' contract between the event organiser and the tobacco company, it has been indicated that the tobacco company may have paid A$1 (84 US cents) per attendee for the privilege of associating its brand with a popular music event and selling its cigarettes to an important target group. If this were so, then given the numbers attending one recent event, organisers would have received upwards of A$50 000 (US$42,100)—well in excess of the rates normally charged to other food and beverage outlets.

Health organisations are working with the Western Australian Health Promotion Foundation (Healthway), and local governments, to replace these tobacco company ''sponsorships'' with a health sponsorship to promote an appropriate health message. This would also serve to remove the opportunity for cigarette sales at these events.

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Israel: empowering the public to enforce smoke-free law

Israel was among the first countries to adopt laws protecting people from exposure to second-hand smoke (SHS). The first such law was adopted in 1983. In 1994, all private and public workplaces were made subject to the law, and in 2001 the law became applicable to most places open to the public, including restaurants, cafés, and other places of leisure and entertainment.

The problem, however, is that implementation of the law is far from perfect. People keep complaining that there is still smoking in many places of entertainment and some public places as well. Local authorities, which are supposed to enforce the law, do so unwillingly and sporadically. Hence the need arose to launch a thorough campaign for enforcement.

The idea is that many people who are exposed to SHS will enforce the law by filing private law suits for compensation, mainly in small claims courts, against business owners in whose establishment smoking is still prevalent, who either do not post no-smoking signs as prescribed by law, or who ignore the law in other ways. This mechanism is simple, fast, effective, and has great potential to deter recalcitrant owners and to bring about comprehensive enforcement all over the country.

The campaign, which started last year and has been steadily gaining momentum, consists of three concurrent parts: court actions, legislative measures, and media coverage.

The first court action was launched in 2005, when Irit Shemesh, a woman from the northern city of Carmiel, together with her husband and two children, visited an Italian restaurant in Jerusalem. She was pregnant at the time, and found herself and her family surrounded by tobacco smoke, including smoke from one of the waitresses. Her complaints were to no avail, yet she could not just walk away: it was a freezing February day, and the children were in the middle of eating. She suffered the resulting discomfort for several days, as did the other members of her family.

Irit's lawsuit in the Jerusalem small claims court for civil compensation was only partially successful. The judge, while finding that violation had occurred, only awarded her compensation from the restaurant's owners at the modest amount of the expenses she had—the price of the family's meal. An appeal to the district court left the result unchanged, as a discretionary matter to be determined by the court of first instance. Therefore, I launched a long shot venture for her, of a leave to appeal motion before the supreme court, the highest court in the country. The motion stated that this was a matter of public importance due to the right of the individual not to be exposed to tobacco smoke, the need to respect the law, and the international obligations which Israel had assumed by ratifying the Framework Convention on Tobacco Control in August 2005. I also relied on the need to protect public health, and the frequent occurrence of such violations.

Supreme court judge Elyakim Rubinstein decided to allow the appeal, emphasising the importance of the matter

and the case. He increased the compensation tenfold to NIS 1000 (US$240), noting that this was only a symbolic compensation, as in such a case it was impossible to prove specific damage. He suggested that the matter now lay with the legislature. The case was extensively covered by Israeli and international media in the summer of 2006, and it was evident that the road to protection from SHS by the courts was now open.

The second case was determined by the small claims court in Tel Aviv, in April this year. The judge awarded Hadas Sella, a student, compensation of NIS 2000 (US$480) for 20 minutes exposure to SHS in a Tel Aviv restaurant. It is worth noting that within 7 months, the compensation for such exposure had been doubled. Even so, the judge emphasised that the compensation requested by Sella was ''modest'' and he therefore awarded it in full, leaving the possibility of courts awarding higher amounts in the future. This case also attracted widespread media attention.

Further judgements have followed, including record compensation to a musician from Tel Aviv, No'am Peled, who sued a shopping mall where he used to visit a gym. The mall had ash trays in the corridors, where people smoked freely, even including some of the security staff, and there were insufficient no-smoking signs. NIS 4000 (US$960) compensation was awarded, with a further NIS 500 (US$120) in court costs.

Following Judge Rubinstein's recommendation that a legislative complimentary measure was required, I approached Gilad Erdan, a prominent member of the Knesset (parliament), who succeeded in passing laws to reduce the numbers of road accidents. Erdan willingly agreed, and I drafted a bill for him to amend the current law by inserting several important new principles to promote enforcement. These include imposing specific criminal liability on those who control public places, if they do not ensure enforcement of the law, backed by heavy fines, as well as higher fines for those who smoke in public places. The bill also includes a statement that the purpose of the amended law is to prevent smoking in ALL public places, and to protect people from the dangers of SHS. The bill is well on the way to approval.

Hadas Sella

In the area of media, in addition to the coverage of successful legal cases, a website called *linshom.com* (linshom is Hebrew for ''to breathe'') was set up, with a petition for those who support enforcement of the public places ban, as well as information on how to file such private lawsuits to gain protection from SHS and claim compensation. Hadas Sella, who was so successful in winning the second case described above, is providing the information assisting individuals to prepare and file similar lawsuits in small claims courts throughout the country. The Israel Cancer Association has provided a telephone hotline with information for those contemplating lawsuits, staffed by students from the school of law at Ramat Gan college.

These combined efforts have already brought positive results in enforcement of the law to prevent smoking in public places. As the project's momentum continues to increase in the coming months, it should dramatically improve the quality of air which Israelis breathe in public places.

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USA: bringing reality to the great American tobacco show

It is getting tougher at the top of America's big tobacco companies. Not only do you have ever more billions of dollars to husband for your shareholders, mostly institutions whose only concern is the profit you make for them and the growth in value of their holdings, but every year your annual general meeting (AGM) gets more stressful. In the past, it must have been a rather nice day out from the office, cheered by applause from the floor as you announced greatly increased sales and profits, lit up by the flashlights of photographers from the financial press, all followed by a nice lunch with your colleagues.

Things are rather different now. Those attending and staging protest activities around tobacco company AGMs this year included representatives from a wider range of organisations and locations than ever before. More than a hundred youth and adult health and community activists from many US states and worldwide, including many developing country representatives; campaigning priest Father Michael Crosby; and nurses from the Nightingales, making their fourth consecutive appearance at tobacco company AGMs, as well as adding a newcomer to their list, General Electric (GE), parent company of movie giant Universal, which the nurses and the Rev Crosby urged to get tobacco out of child-rated movies, or at least adopt an effective rating system.

The programme of activities the various groups got up to was also unprecedented: youth advocacy training followed by a demonstration outside the shareholders' meeting of Altria, which owns Philip Morris (PM), and active participation inside the meeting itself; a demonstration at Altria's headquarters in New York City; and visits to other AGMs - Reynolds American, Lowes, US Tobacco and GE.

Altria, the largest of the international tobacco companies, received the greatest attention, and overall, at least an hour of its time was taken up by activities related to the inconvenient fact that it profits from products that are addictive and kill millions of people every year. Contributors from the floor included Dina Kania of the national commission for child protection in Indonesia. She told Louis Camilleri, Altria' chief executive, ''You say you don't advertise to minors, but Philip Morris advertises everywhere in Indonesia, on billboards, in bus stops, television, posters and even near schools. In other words, minors see your advertisements every day.'' Mr Camilleri, politely but predictably, replied that it was misleading to try to simplify ''what are very complex issues.'' But the issues raised by the Rev Crosby were certainly not complex: in language that can be difficult for a health advocate to use but which is daily fare for a priest, he told Mr Camilleri, ''You are legal, but not everything that is legal is moral. Every one of the Board of Directors, every one of the shareholders, is making money on an immoral product, which if used as intended will kill, because it addicts. I think that as we separate this company and 'celebrate - as you say, 'celebrate,' 'it's an exciting time,' - it can't be an exciting time if you have moral convictions.''

Other contributors included Stephen Ross, representing a youth group in New Hampshire, who addressed the company's resistance to use retail promotional space to inform children about the dangers of smoking - apparently the company says this is the responsibility of public health officials. In a classic show

of tobacco industry sophistry, Mr Camilleri said, ''It's ironic that you don't think public health has a role in this. It's quite ironic.'' Perhaps he was irked at Ross's promise that, ''...we won't go away. We will come back year after year after year until you are willing to put our lives ahead of your bank accounts.''

Whatever Mr Camilleri really felt, it was left to others on his side to do the heckling, with at least two members of the audience referring to health activists as ''the lunatic fringe.'' But when Essential Action's Anna White voiced concern that the proposed break-up of Philip Morris posed the risk that Philip Morris International (PMI) would become even more effective at spreading ''its toxic products'' and that an independent PMI, likely to be based in Switzerland, would no longer feel constrained by public opinion or the possibility of domestic regulation or litigation in its home country, Camilleri seemed to be feeling the strain. He told her that what she had said did not make any sense, and was ''a major insult to Switzerland,'' before expressing exasperation at her lack of response to PM's offers to have a dialogue.

Tobacco companies love dialogue, of course, so that they can assert that all their activities are carried out with the implicit consent of what they call their ''stakeholders.'' They would like nothing more than a truly worldwide dialogue with their antagonists, to try to neutralise them and negate their only tool, the science base that determines that the solution to preventing hundreds of millions more tobacco deaths lies in reducing consumption. Everyone in public health must be alert to their efforts to neutralise or blunt measures taken under the Framework Convention on Tobacco Control (FCTC), by far the best opportunity we have ever had. But if the industry is ever happy with how the FCTC works, the treaty will fail.

USA: Nightingales nurses protest at Altria's AGM

UK/World: BAT has to be kidding

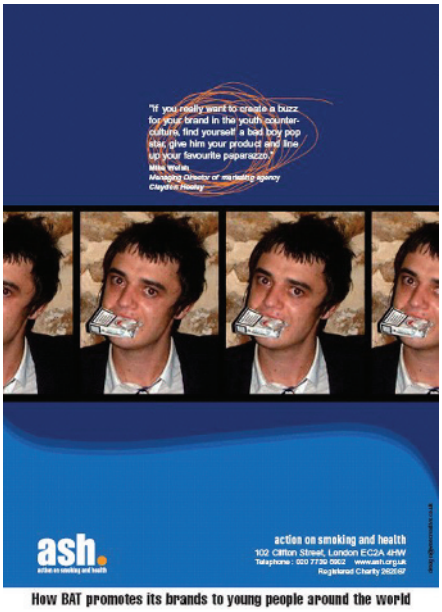
The annual general meeting of British American Tobacco (BAT) was also the scene of significant participation by health agents. While less disrupted outwardly by comparison to its US equivalents (see above), shareholders had to listen to protests by a young Nigerian, Adeola Akinremi, that BAT was selling cigarettes in quantities of two rather than packs of ten or twenty, something illegal in the UK for many years. Jeffries Briginshaw, BAT's head of international, political and regulatory affairs made the mistake of insisting that this was not the case; but Adeola promptly showed the meeting a copy of an advertisement providing clear evidence of his claim.

This was just part of a carefully planned campaign by Action on Smoking and Health (ASH). With the help of tobacco control colleagues in developing countries, ASH had compiled a report, *You've got to be kidding - How BAT promotes its brands to young people around the world*. The publication, supported by evidence of the type so often seen in these pages, clearly illustrates that for all its public relations spin about corporate social responsibility, it is business as usual for BAT, in its marketing to youth, just as it is in terms of sales and profits. In 2006, total sales were the equivalent of US$49.6 billion, with profits up seven per cent to US$5.1 billion.

The report cites a wide range of examples of promotions that are clearly

USA: international youth protest at Altria's AGM

An ad for BAT's Pall Mall brand in Chile



The back of ASH's report showing Pete Doherty and a Lucky Strike pack

aimed at young people in the most vulnerable societies of the world. In the words of a South African agency, ''Lucky Strike South Africa embarked on a radical strategy to re-launch and grow the brand by targeting the underground youth community—a community that is left of centre, which sets the trends rather than following them.'' And Pete Doherty of Babyshambles, which a music magazine said recently was ''as famous for cancelling gigs as they are for Doherty's drug dependence,'' is often photographed with his Lucky Strike pack. As a British marketing expert put it, ''If you really want to create a buzz for your brand in the youth counter-culture, find yourself a bad boy pop star, give him your product and line up your favourite paparazzo.'' Doherty features on the back of the ASH report.

Only tobacco executives could persuade themselves to say in public that the sort of marketing techniques illustrated in ASH's report were anything other than deeply, fundamentally irresponsible. Yet during the meeting, Jan du Plessis, BAT's chairman, claimed the report's accusations were too general; and in a subsequent letter to ASH, the furthest he would go was to admit that there appeared to be ''a couple of examples that may be in breach of our International Marketing Standards.''

To anyone who has seen the report, never mind the far greater volume of evidence it omitted, such a devaluation of its content, and refusal to accept responsibility, is nothing short of absurd. But BAT's understatement follows a long and sorry tradition of British tobacco trade denial, going right back to the early days of tobacco control. For example, in response to ASH reports on illegal sales of cigarettes to children in the 1970s and '80s, massive evidence of consistent breaches of the law were dismissed as rare exceptions. For those reports, ASH used a professional research company to send appropriately briefed and chaperoned children into tobacconists to try to buy cigarettes, to test the law the industry most loved to cite as safeguarding children from tobacco (thereby, the industry hoped, persuading the government not to tighten regulations governing promotion). The figure for breaches of the law was always the same: eight out of ten retailers, most of whose shop windows were festooned with seductive tobacco ads at child's-eye-level, handed over the cigarettes. The industry's response? By and large the law was working well, they would say, but was still broken very occasionally by ''a tiny minority'' who, regrettably, got ''the vast majority'' a bad name.

Are tobacco people really so stupid that they believe this sort of stuff? Or do they just parrot what their spin doctors write, and then privately have a good laugh, all the way to the bank? Perhaps Mr du Plessis, conceding so little, is just following a time-tested formula: admit as little as possible, hold your nerve, and the story will go away.

ASH's report shows how remarkably consistent BAT has been in its attitude to making the most of diminishing opportunities for tobacco promotion, be it in response to conceding breaches when caught out, or planning alternatives to traditional advertising and sponsorship. Nearly three decades ago, ASH received a copy of draft notes summarising a BAT planning meeting. In those pre-Minnesota days such documents were rarities, but were soon forgotten when the floodgates of industry documents opened. The BAT 'Post-Jestbury' document set the scene for much of what BAT does now, as evidenced by ASH's report.

Starting with the blunt observation that ''Prospects are poor,'' the paper went on to emphasise ''the importance of bringing plans to fruition and initiating action *well before* bans or severe restrictions are imposed is absolutely vital.'' It said that ''the most effective symbols, designs, colour schemes, graphics and other brand identifiers should be carefully researched so as to find out which best convey the elements of goodwill and image. An objective should be to enable packs, by themselves, to convey the total product message.'' On brand-stretching, ''opportunities should be explored to find non-tobacco products and services that can communicate the brand or house name, together with their visual identifiers, so that cigarette lines can be effectively publicised when all direct forms of communication are denied.'' And in a somewhat chilling but no doubt realistic assessment of what makes for tobacco promotions bans, the paper listed, among other factors, ''the absence of civil and political unrest, leaving politicians free to indulge in so-called social reforming policies.''

We have seen all of this and more being put into practice over the subsequent quarter century. However, with tobacco control now being truly international, to

an extent that even BAT could not have foreseen in 1979, attempts to pass effective legislation under the Framework Convention on Tobacco Control (FCTC) will be seen by the industry as essential targets for action, to try to weaken and insert loopholes in draft laws. Such dangers pose the toughest challenge to the Conference of Parties determining the development of the FCTC to maximise its objectives ''to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.''

Canada: first public health school rejects tobacco funds

In an unprecedented move in Canada, three faculties at the University of Alberta passed similar motions in a matter of weeks rejecting tobacco industry funding. One of these faculties was home to a researcher with a US$1.5 million grant by the US Smokeless Tobacco Company (UST).

The chain of events leading to this action started inadvertently. Over a year ago, a physician in the department of psychiatry applied for federal research funding designated for tobacco control in special populations. A requirement of the granting body was the absence of tobacco funding in the home department, which could not be complied with due to the alleged presence of a tobacco industry consultant in the department.

The university has a history of inconsistency in its policies on tobacco. In 2002, when the students' union was offered a tobacco industry-funded scholarship, the board of governors interceded to prevent it. Yet when the students' union acted to prohibit tobacco sales in its facilities on campus, the university did not follow suit. And in 2005, an epidemiologist was hired in a public health unit that later became part of Canada's first school of public health, with funding from UST, the smokeless tobacco company.

In March 2007, the decision of the department of psychiatry to allow a faculty member to consult for the tobacco industry in preference to supporting an application for research became the subject of media attention, and over subsequent weeks this included television coverage, as well as newspaper articles, editorials and correspondence. It became apparent that Albertans were concerned about corporate influences in academia.

The faculty of medicine and dentistry quickly demonstrated leadership by passing a motion to reject tobacco industry funding for research. The faculty of nursing followed suit soon afterwards, enhancing its motion to include any form of funding, including paid consultancy. By this point, the majority of students and faculty members in the health sciences were protected from tobacco industry influence.

On 8 June, despite active tobacco-funded lobbying to boycott the meeting and sabotage the motion, the school of public health overwhelmingly passed the following motion:

> Be it resolved that the School of Public Health will not accept or administer funding (including direct of indirect, such as scholarships and consultancies) for any purpose (including research, advocacy, student support, infrastructure or other university-related activities) from the tobacco industry (including individual companies or their component parts that are engaged in the production, manufacture, distribution, promotion, marketing, or sale of tobacco or tobacco products as their primary business) or from funds, foundations or people advocating directly or indirectly on behalf of the tobacco industry and any of its related products.

The decision is all the more significant for being made by Canada's first and only school of public health, which is little more than a year old. By seizing the opportunity for ethical leadership, it demonstrated how public health can and should trump the interests of the tobacco industry in institutions of higher learning. A call to action is issued for other schools of medicine, nursing, and public health to initiate a process to follow suit. At the University of Alberta itself, the board of governors is now in a strong position to adopt a similar stance for the entire university, just prior to the Canadian Council for Tobacco Control's national conference on tobacco to be held in the same city, Edmonton, in October.

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BAT's Blackberry-picking endorsement

Selected customers of Blackberry mobile communications devices have recently been sent an email lauding the reliability of the ''Neverfail'' operating system which ensures ''high availability and disaster recovery'' in the case of mobile network failure. On the surface, the message is about Neverfail and Blackberry. However, at the centre of this direct marketing message is a ringing endorsement by British American Tobacco (BAT). Faced with growing regulation of its business, BAT's apparent use of electronic co-branding is an example of how the tobacco industry is seeking innovative ways to counter growing marginalisation by public health advocates.

The endorsement boosts BAT's image within the business community as reliable, forward thinking and dynamic, by associating itself with cutting edge global information technology and successful companies in that sector. While the message is not overtly concerned with selling tobacco products, the prominence given to BAT in the message and website (http://www.neverfailgroup.com/bat.aspx) allows it to remain in the public eye, especially among corporate executives and senior policy makers.

For Neverfail, the potential pitfalls of association with a company that makes and promotes a uniquely dangerous and addictive product, cigarettes, are apparently surmounted by the perceived benefits of a connection with the world's most international tobacco corporation. The Neverfail website boasts, ''Mobile email and applications are essential to helping British American Tobacco senior executives communicate and access information during their travels across the world and through many time zones.''

The public health community must strongly discourage respected companies such as Blackberry from associating themselves with the tobacco industry. The advertisement brings new meaning to the addictiveness of the Blackberry, known by ardent users as the ''Crackberry''. The endorsement by David Sampson, head of BAT headquarters information technology, states: ''British American Tobacco's mobile platforms have come to lie at the heart of our business use of technology. The simple fact is that Neverfail keeps that heart beating.'' The same cannot be said for BAT, given its leading role in an industry whose products kill five million people each year—many of them from heart disease.

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