Framework Convention Alliance
Building Support for Global Tobacco Control

ALLIANCE BULLETIN

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TODAY'S DELEGATE BRIEFING

RISING TOBACCO CANCER DEATHS AMONG WOMEN

20 March 2002
12:30 - 14:00
Salle 3

ARE CIGARETTE EXECUTIVES RACKETEERS?

"Can't be!" After all, the U.S. Racketeer Influenced and Corrupt Organizations Act ("RICO") was designed to deal principally with organisations that, through a pattern of fraudulent or other illegal activities, make huge profits from hooking young people on addictive drugs, and invest these profits in legitimate enterprises. Does this describe the tobacco industry?

Well, actually, yes. The tobacco companies have made their money by lying to both regulators and consumers about the dangers of their products. Making money by lying is the very definition of fraud.

The companies invested their profits both in "front organisations", such as the Council for Tobacco Research and INFOTAB, and in legitimate businesses such as Kraft and Nabisco food companies. Furthermore, though it is not required by the statute, cigarette companies are in the very business that gave rise to RICO — illegally selling addictive drugs to kids!

What difference does it make that cigarette companies are "Racketeer Influenced and Corrupt Organizations"? The answer is, "a lot." RICO is one of the most powerful laws in the United States. In a private lawsuit, a plaintiff who is injured in its business or property by RICO violations can recover three times its actual damages caused by RICO violations, plus attorneys' fees.

Several U.S. states included RICO claims in their cases against the tobacco industry: these claims were instrumental in persuading the tobacco companies to settle. Other cases, including those brought in U.S. courts by foreign countries seeking health care cost reimbursement, and by Canada and the European Union in seeking compensation for the injuries they suffered from tobacco industry-organized smuggling, also included RICO counts.

While these cases have thus far been rejected by U.S. courts on pre-

(Continued on page 2)

DEATH CLOCK

Since the opening of the first working group for the Framework Convention on Tobacco Control on 25 October 1999,

9,661,032

people have died from tobacco-related diseases.

(At 9 am 20 March 2002)

An unholy mix: Tobacco and Islam

Cigarette companies displayed banners throughout Dhaka (Bangladesh) during Istema, the second largest gathering of Muslims in the world. Despite Islam's firm stance that addictive and harmful products are haram (not allowed), the banners linked cigarettes with their well-wishes to those attending the gathering.

Today's Weather: Cloudy with sunny periods, scattered showers **High** 15 ºC **Low** 11 ºC

(**Are Cigarette...***Continued from page 1)*

liminary grounds unrelated to the merits of the claims, Canada and the E.U. have indicated that they will appeal these decisions up to the Supreme Court, and RICO will provide the most powerful legal basis for recovery if the courts ever decide to allow the cases to proceed to trial.

The U.S. Department of Justice has unique powers under RICO, which it is exercising in its current lawsuit against the industry. Unlike those that sued to recover their financial damages, the Justice Department is suing entirely in its law enforcement capacity. In this role, it is seeking to force the industry to cough up its ill-gotten gains, as well as issuing judicial orders requiring the industry to change its conduct in fundamental ways.

In legal papers filed in late 2001, the Justice Department pointed out that the RICO conspiracy began in 1953, when the companies met and decided to deny and rebut scientific findings, regardless of their validity.

As a result, the industry began accruing ill-gotten gains the following year, and these gains have grown in every successive year. According to the Justice Department's experts, the best estimates of the total amount of the ill-gotten gains which the industry should be required to surrender range from more than $200 billion to more than $900 billion.

The Justice Department has also identified a wide variety of other deceptive and illegal conduct by the industry, including conspiring to keep less deadly products off the market and adopting marketing techniques designed to get children and teenagers to smoke.

They have therefore indicated that they will request the court to issue orders designed to undo the adverse effects of this illegal conduct, including requiring the companies to fund research, development and marketing of less hazardous cigarettes, to put Canadian-type warnings on cigarette packages with the remainder of the package in black-and-white, to eliminate point-of-sale advertising, use of "light" and "mild", and cigarette vending machines, and to fund a counter-advertising campaign.

If the Justice Department's case goes to trial as scheduled in mid-2003, the tobacco industry may finally pay the price for their decades of racketeering behavior.

—Richard A. Daynard

Genève, Suisse, siège de l'OMS et mauvais exemple pour la CCLAT

Vous êtes arrivés à Genève et vous étiez étonné de ne pas retrouver une seule trace des mesures dont on discute pendant cette semaine au sein de l'OMS. Ce n'était pas une erreur de votre part, c'est bien la réalité suisse !

En Suisse vous trouvez des larges surfaces de publicité pour les cigarettes, **sur lesquels aucun avertissement concernant la santé est obligatoire.** La vente des cigarettes n'est pas restreinte : les jeunes peuvent les acheter librement partout ou on les vend, et les automates vous en procurent à chaque moment, surtout dans les restaurants.

Si vous voulez manger sans être dérangé par la fumée, il vous faut de la patience et de la chance pour trouver un endroit, car aucune loi ne force les patrons à mettre à disposition des places non-fumeurs.

Le prix des cigarettes par rapport aux prix suisses est un des plus bas en Europe et le gouvernement ne prévoit pas de hausse de prix suffisante pour s'approcher du niveau de l'Union européenne. Les reproches de l'étranger concernant l'organisation de la contrebande depuis la Suisse et l'hébergement du crime organisé sont ignorés et niés.

Pourquoi la Suisse, siège de l'OMS, est-elle tellement en retard en matière de lutte contre le tabagisme ? Tout d'abord, parce que les sièges internationaux des trois multinationales Philip Morris, Japan Tobacco et BAT se trouvent en Suisse.

Ils ont choisi la Suisse à cause du secret bancaire qui protège leurs documents et d'une fiscalité très favorable. Leur puissant lobbying est accueilli favorablement au sein du gouvernement : cela ne peut pas étonner si l'on sait que le président de la Confédération suisse est issu d'une famille de producteurs de cigares.

Responsable des finances en même temps, il n'hésite pas non plus à présenter actuellement au parlement une loi sur l'imposition de tabac qui trouve l'accord de l'industrie du tabac.

Le but déclaré de la politique du gouvernement suisse est de sauvegarder un environnement qui ne remet pas en question l'implantation de l'industrie de tabac. C'est aussi dans cette optique que les planteurs de tabac sont soutenus avec 20 millions de francs suisses par année, quatre fois plus que le budget pour la prévention en matière de tabac.

Et cela ne risque pas de changer aussi vite : la Suisse n'est pas membre de l'UE et la question du maintien du siège de l'OMS sous ces conditions n'a pas été posée jusqu'aujourd'hui....

—Reto Wiesli,
Société suisse de santé publique,
délégué pour
la Fédération mondiale
des associations de
santé publique

Don't make the same mistake twice: scrap tar yield reporting on packs

Governments committed an enormous blunder in the 1960s by requiring nicotine and tar yields of cigarettes to be printed on packs. The blunder is about to be repeated in the FCTC. Low-tar products are no less harmful than regular ones, the yields shown on cigarette packs only apply to machine smokers, not humans. Providing smokers with information on the amounts of nicotine and tar in cigarette smoke is thus meaningless.

In the 1950s and 1960s, health authorities encouraged smokers to quit, or else to switch to filtered and low-tar brands. This recommendation was based on the assumption that less tar would produce less cancer.

Millions of smokers around the world switched to these so-called 'safer' products, but health benefits did not follow. Comprehensive reviews of the scientific evidence by British and US agencies have concluded:

- There is no cigarette brand in the market that offers 'reduced health risks'.
- Low tar yield cigarettes are not safer or less toxic than high-yield brands.
- The International Standards Organization (ISO) methods used to measure nicotine and tar do not accurately reflect how much tar and nicotine is actually absorbed by the smoker.
- Smokers of low-nicotine brands have as much nicotine in their blood as smokers of high-nicotine brands.

A Consumer Fraud

Internal tobacco industry documents show that the industry deliberately designed cigarettes to beat the ISO system — creating the impression of 'lighter' cigarettes while delivering enough nicotine to keep smokers hooked.

Reductions in nicotine and tar were achieved not by reducing tobacco or toxins in the cigarette, but instead by redesigning it — by making the cigarette burn faster, so the machine would take fewer puffs and the amount of smoke collected is reduced, or by making tiny holes in the filter, so air is introduced into the inhaled smoke and dilutes it.

But humans do not smoke like machines. By taking more puffs on the cigarette, or by blocking the air holes in the filters with their fingers, smokers can get a high nicotine dose even though they are smoking a supposedly low-nicotine cigarette. Smokers could thus easily compensate and change a low-tar into a high-tar cigarette.

The cigarette manufacturers deliberately marketed the 'illusion of reduction of risk' to smokers who were concerned about their health and thinking of quitting, and discouraged many of them from doing so. The industry put sales above safety.

A Reasonable FCTC Solution

Stating the amount of tar and nicotine in cigarette smoke on the packet provides the consumer with, at best, meaningless and, at worst, harmful information. Until new methods of measuring the actual intake of nicotine and tar from a cigarette by a smoker are established, cigarette packaging should contain qualitative but not quantitative data on the poisons in tobacco smoke.

Smokers should be informed that tobacco smoke contains nicotine, tar, carbon monoxide, etc., but the levels of these chemicals should not be stated on the pack. This will ensure that meaningless numbers do not deceive smokers into switching to low yield cigarettes rather than quitting.

—Yussuf Saloojee, INGCAT

La industria utiliza la metodología ISO para engañar al consumidor

La metodología ISO para obtener información sobre la cantidad de alquitrán, nicotina y monóxido de carbono contenidos en el humo de tabaco empezó a ser utilizada cuando se descubrió que había una relación entre la dosis de alquitrán y el desarrollo de tumores y cáncer.

Desgraciadamente, el método ISO solo refleja la cantidad de sustancias nocivas inhaladas por un fumador *mecánico*. Es decir, una máquina que toma una calada de un volumen estandar a intervalos estándares. Por esa razón este método de análisis no tiene ninguna relación con las cantidades de humo inhaladas por un fumador humano.

El Instituto Nacional del Cáncer de los Estados Unidos descubrió que el fumador humano ajusta su modo de fumar para obtener la dosis de nicotina requerida. La velocidad y el volumen de inhalación también tienen un impacto considerable.

La industria utiliza los datos de esta metodología para sugerir, de un modo erróneo, que algunas marcas de cigarrillos son menos nocivas que otras. Pero el Instituto Nacional del Cáncer descubrió que no hay ninguna diferencia en el daño sobre la salud si se fuma un cigarrillo "light" en lugar de un cigarrillo "regular".

Por esta razón, es muy importante que el Convenio marco para la lucha antitabáquica adopte medidas apropiadas sobre este tema. Es necesario asegurar que los fabricantes no utilicen en ningún paquete o envase de productos del tabaco los datos obtenidos por la metodología ISO para promocionar un producto del tabaco. Estas indicaciones son falsas, y pueden inducir a error respecto a las características, efectos para la salud, riesgos o emisiones de los cigarri-

Russian Paradox

Increasing production, shrinking demand for tobacco

In his address to the Federal Assembly of the Russian Federation on 8 July 2000, the President of the Russian Federation Vladimir Putin presented the most pressing challenges which Russia needs to resolve.

The first issue was the decline of the population. The President stated that in 15 years there could be a decline of 22 million people and, if current trends persist, the survival of the nation would be endangered. Recent Presidential initiatives on promoting healthy lifestyles have been widely supported by Russia's population, and need to be implemented in full.

It is widely acknowledged that tobacco consumption is one of the main killers in Russia and is partly responsible for population decline. An estimated 63% of adult males (44 million people) and almost 10% of women (8 million people) smoke. The number of deaths attributable to smoking in Russia is over 270,000 a year.

Tobacco industry representatives also discuss implications of demographic changes—for their deadly business. According to Viktor Stefashin of the Association of Tobacco Distributors GrandTabak, local legal production increased in 1990-2001 from 150.5 up to 374.0 billion cigarettes.

Mr. Stefashin claims that total supply (taking into account production, import, smuggling, and exports) in 2001 was 389.2 billion cigarettes, while total demand was only 285-300 billion. He concludes that the demand will further decrease because of demographic change: the number of smokers will decrease by 3 million by 2010 and 4.5 million by 2015, leading to a decrease in demand of 20 and 30 billion cigarettes respectively.

Russia's population is declining at an alarming rate, due in no small measure to exceptionally high smoking rates.

Still production is increasing considerably. Why? One possible explanation lies in the lack of monitoring of the movement of tobacco products between certain CIS states.

It is clear that the Russia tobacco case is special and that FCTC is vital for Russia, because it is experiencing large-scale public health challenges. This is aggravated by its being one of the largest tobacco markets in the world, and by indications over the last ten years of the country becoming a stronghold of the transnational tobacco industry.

The tobacco industry does not limit its activities to the production of vast quantities of cigarettes. It has also launched a PR campaign, which includes working with a quasi-industry NGO called the Russian Public Council on Problems of Adolescent Smoking. The Council in turn conducts initiatives on tobacco smoking prevention among children, has supported publication of a journal called "Culture of Healthy Lifestyle," and co-organized, with government agencies, a conference on child health.

The magnitude of the tobacco threat explains why all actors should respond vigorously. Instead, the state responded with a fairly weak Federal Law, "On Limitation of Tobacco Smoking," which was welcomed by the industry and came into force in 2002. For example, it requires a text-only health warning covering 4% of the pack, but does not ban advertising.

Litigation attempts so far have not yielded positive results. Civil society is underdeveloped and NGOs are not treated by some government officials as a valuable partner. A strong and effective FCTC is a much-needed tool for Russia to succeed in overcoming the public health challenge posed by tobacco.

—Andrei Demine, MD,
President of Russian Public Health Association,
Coordinator of Russian National Coalition "For Tobacco-Free Russia!"
www.rpha.newmail.ru

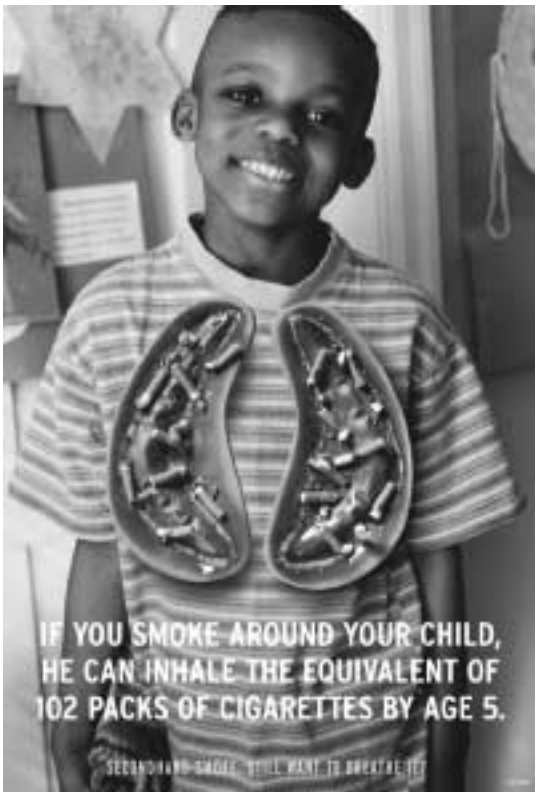
Errata

— Yesterday's Bulletin mistakenly said that the billboard of "Prenatal Marketing" was in Russia. In fact, it was displayed in the Ukraine. We apologise for the error and assure our readers that we are aware that Russia and Ukraine are not the same country.

— A photo caption incorrectly referred to Director General Dr. Gro Harlem Brundtland as "Secretary General". Not yet, anyway...

Norme internationale à établir
L'exposition involontaire à la fumée du tabac est inadmissible

« Les victimes du tabagisme passif...doivent faire valoir énergiquement leur droit à l'air pur et ne pas se laisser duper par les politiques d'auto-réglementation de l'industrie du tabac. Les gouvernements doivent donner la priorité à une législation contre la fumée de tabac ambiante. » **—Dr Gro Harlem Brundtland, Directeur Général, OMS mai 2001.**



Un aspect vital de la CCLAT est de reconnaître les graves risques posés par la fumée ambiante et d'encourager les Etats membres à mettre en place des politiques qui protégeront la santé publique.

Les risques liés au tabagisme ne concernent pas seulement les fumeurs, mais aussi tous ceux qui subissent les émanations toxiques de la fumée du tabac. Les scientifiques sont d'avis qu'aucun niveau d'exposition au tabagisme passif n'est dépourvu de danger.

La fumée du tabac contient plus de 4 000 produits chimiques, dont plus de 50 sont carcinogènes. Les agents actifs trouvés dans la fumée ambiante du tabac incluent l'ammoniac, l'arsenic, le cyanure, le formaldéhyde et l'acétone. En plus, le tabac contient des quantités importantes d'oxyde de carbone, un gaz qui réduit la capacité du sang à transporter l'oxygène aux tissus et aux organes vitaux tels que le cœur et le cerveau.

« Il est scientifiquement établi que l'exposition à la fumée ambiante provoque des cancers et favorise diverses affections pulmonaires et cardiaques. Elle peut être une cause d'asthme et d'autres affections respiratoires chez les enfants et elle a été incriminée dans diverses autres maladies de l'enfant telles que la mort subite du nourrisson et les infections de l'oreille moyenne. » **—Dr Gro Harlem Brundtland.**

Les enfants sont particulièrement vulnérables aux effets de la fumée passive. L'OMS estime qu'environ 700 millions, donc presque la moitié des enfants du monde sont exposés à la fumée passive. En outre, l'exposition du fœtus *in utero* à la fumée du tabac est associée à une réduction du poids des enfants à la naissance, un retard de croissance et des malformations congénitales.

L'interdiction de fumer dans les lieux publics et les lieux de travail protège la santé publique et augmente la prise de conscience du public vis-à-vis des effets négatifs du tabac. En plus, ces interdictions contribuent à changer la norme sociale, et font en sorte que le tabagisme devient l'exception et non la norme. Aussi, des études ont démontré que ces politiques ont pour effet de diminuer la consommation de cigarettes et d'aider les gens à cesser de fumer.

« Le moment est venu de parler haut et fort. Nous avons le droit de respirer de l'air pur. Nous avons le droit d'être en bonne santé et de protéger nos amis et notre famille. Nous devons éliminer la fumée ambiante. » **—Dr Gro Harlem Brundtland**

—Laurent Hubert, ASH États-Unis

NATT report
Don't let tobacco industry de-rail FCTC

As countries reach the mid-point of the fourth round of negotiations on the Framework Convention on Tobacco Control (FCTC), consumer and corporate accountability NGOs are releasing new evidence of the tobacco industry's attempts to undermine public health policy globally. A report released today—*Tobacco Transnational Activity to Undermine Tobacco Control Policy and the FCTC*—highlights the need for the FCTC to set limits on the political influence of transnational tobacco corporations.

The report, which reviews industry practices from Japan to Zambia, was compiled by the corporate accountability organization Infact and several other members of the Network for Accountabililty of Tobacco Transnationals (NATT). It demonstrates that no corner of the world is free from tobacco industry attempts to undermine public health policy.

Examples include:

Ý In Turkey, Philip Morris and Japan Tobacco formed the Tobacco Industry Association as an NGO to take part in national preparations on the FCTC. The tobacco corporations tried to run youth anti-smoking ads, but were stopped.

Ý The Bush administration in the US supported a last-minute proposal backed by lobbyists for the tobacco industry to use anti-terrorism legislation to protect US tobacco corporations from international lawsuits over smuggling and money laundering. The proposal ran into strong opposition and was defeated.

Representatives of Consumer VOICE (India), Environmental Rights Action (Nigeria), and Infact (US) will present the report's findings at a press conference this morning (11 a.m. at Palais des Nations, Salle de Presse no. 2). With four million people dying every year from tobacco-related illnesses, NATT members are urging countries to act now to keep the FCTC, and public health policy more broadly, free from tobacco industry influence — including by strengthening provisions in articles E and K of the treaty.

—Patti Lynn, Infact (US)

Beginner's guide

Understanding FCTC negotiating language

Consensus	A device by which an international agreement can be made to reflect the agenda of the worst states (see '*axis of evil*' below).
Protocol	A kind of useful trash can into which we can dump any meaningful measures that might otherwise find their way into the Convention.
Conference of the	A meeting that is a long way in the future because it only happens once the FCTC has entered into force. Protocols can be delayed almost indefinitely by making them the responsibility of the COP.
National law	If we make sure the FCTC is always in accordance with national law, we don't actually have to change anything.
Definitions	These should be negotiated last so that if we don't like the measures, we can always use definitions to make sure they don't actually apply to anything.
Appropriate	Whatever we want it to mean, and therefore meaningless.
Delete	An old fashioned version of 'appropriate', which is equivalent in meaning but much more embarrassing to negotiate.
Free speech	The inalienable right of any tobacco corporation to buy our politicians.
Acquis	See 'consensus'.
European Union	See 'acquis communautaire'.
Axis of Evil	US, Germany, Japan (*is this right? – ed*)

False and misleading claims

In many countries consumer laws—some of which are almost a century old—promise to protect the public from "false and misleading" advertising claims. Yet these laws have not been used to stop tobacco companies from falsely associating smoking with healthy activities, or falsely marketing some brands as 'lighter' than others, thus misleading smokers into thinking these brands are safer.

It's not clear why public health authorities have failed to use these provisions to curb the marketing excesses of tobacco companies. They may have simply lacked the desire (or the political support) to take on big tobacco. They may also have been discouraged by jurisprudence that makes this law more difficult to apply to implicit claims, or to distinguish between the usual advertising 'puffery' and the harm caused by tobacco marketing imagery.

What is clear is that the FCTC cannot rely on vaguely-worded general prohibitions on 'false and misleading' to end the many explicit and implicit ways that tobacco companies use packaging and other marketing measures to diminish public health awareness of the harms caused by smoking. Decades of failure with domestic laws should be convincing enough of the need for something stronger in international law.

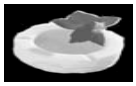
Getting rid of overt or implicit health claims will require overt and explicit authority in the FCTC. The claim that a general ban on misleading claims will end 'light' and 'mild' deception is itself a false and misleading claim.

—Cynthia Callard, Physicians for a Smoke-free Canada

Dirty Ashtray Award

To **Australia** and **Canada**, for being uncharacteristically wimpy on smuggling.

Orchid Award



To Pacific and Caribbean countries, for listening to NGO text suggestions.