# ALLIANCE BULLETIN

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INB-5 Monday

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**From: *Doctors' manifesto for global tobacco control*** **[see p. 6]**

"In Mali, brandstretching has been used to circumvent a national advertising ban. The FCTC should commit governments to introduce comprehensive legislation to ban all forms of tobacco promotion and sponsorship."

*Dr Abdoulaye Néné Coulibaly, National Centre for Health Information, Education and Communication (Mali)*

## DEATH CLOCK

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

**12,029,472**

people have died from tobacco-related diseases.

(At 9 am 21 October 2002)

## *Advertising bans are possible*

## National constitutions — not something to hide behind

At INB-5, some countries continue to claim their constitutions prevent them from accepting a total ban on tobacco advertising. But have they actually checked?

Hungary recently did. The Hungarian constitution, like that of other countries, provides guarantees for both the health of the country's citizens and for the freedom of speech, including the commercial speech that tobacco advertising is claimed to be. Despite this, in December 2000 the Hungarian Parliament voted for a total ban of direct and indirect advertising, with full approval from the country's Constitutional Court.

A bit of history: Hungarian legislators passed a very liberal advertising act in June 1997, allowing all kind of tobacco advertising except for that targeted at youth.

At that point, a leading Hungarian tobacco control advocate, Lajos Pákozdi, asked for a statement from the Constitutional Court. He said the regulation is not able to provide enough protection for the health of Hungarians.

His submission argued that tobacco advertisements not only help choosing between different brands, but are inherently deceitful since they imply that smoking is an acceptable and widespread behaviour, and that cigarettes, as one advertising slogan put it, are "Your friend in everyday life".

***Before the ban came into effect, BAT peddled its Sopaine brand cigarettes under the slogan, "Your friend in everyday life".***

Banning tobacco ads in publications for children, but allowing them in highly visible places (like outdoor posters and billboards) does not protect children and youth from becoming lured by the attractive and fun life offered by cigarette ads.

He also referred to a 1996 Court position on marketing activities, which concluded that in order to assure a high level of protection for human life and physical and mental health, a legal limitation of the rights of commercial enterprises is admissible.

In response to this submission, a new Court statement was issued in autumn 2000, reiterating the importance of the freedom of commercial speech, but also indicating that the government can recommend stricter rules as it considers necessary for providing higher protection to health and human life and better protection for the children's physical and mental development.

This statement came just in time to be used by Hungarian tobacco control advocates and supportive parliamentarians in their attempt to amend the 1997 act and to introduce a total ban on tobacco advertising.

The Hungarian experience shows there is no reason for putting commercial interests above health and that constitutional courts do accept initiatives aimed at safeguarding health.

*— Tibor Szilágyi*
*Health 21 Hungarian Foundation*

**Today's Weather:** Showers possible
**High** 15 ºC **Low** 8 ºC

# How to Evade an Ad Ban, Lesson No. 382

With the announcement of new tobacco control legislation, have the days of tobacco promotion in India come to an end? The emerging marketing tactics of Indian Tobacco Company (ITC), makers of the popular Wills cigarettes, tell otherwise.

Within a month of the announcement last year of a new bill which includes a ban on tobacco advertising and sponsorship of sports and cultural events, ITC announced that it would be opening 128 Wills Lifestyle Stores throughout the country. Today, all the major Indian cities are dotted with several Wills Stores selling sports gear under the name of their flagship cigarette brand.

The Lifestyle Stores in Mumbai recently held a Karaoke Competition in the leading discotheques in the city, especially targeting youth. The discos were adorned with the Wills logo, creating a positive association between music, youth, vigour and Wills cigarettes.

How is this possible, given that advertising is being banned? Unfortunately, the proposed Bill does not prohibit brand-stretching. ITC, taking advantage of this loophole, registered itself as a new company, "Wills Sports", allowing them to maintain their position close to the hearts of youth.

The loopholes left in the law, and the voracious rapidity with which the cigarette companies are moving to take advantage of them, serve as a timely reminder of the need to take an uncompromising stance on the complete banning of advertising and promotion. After all, what difference does it make to the youth who becomes addicted to Wills cigarettes whether their initial attraction to the product was through a direct ad or an indirect one?

*— Shoba John*
*PATH Canada, Mumbai, India*

## European Countries Deliver Breakthrough on Tobacco Advertising

The most significant development during the first week of INB-5 was Wednesday's announcement by 24 European Region countries that they support a total ban on tobacco advertising, in accordance with national constitutions.

Announced by Ireland in plenary session, the position was backed by: Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Macedonia, Malta, Netherlands, Poland, Portugal, Slovakia, Sweden, Turkey, United Kingdom, and Yugoslavia.

Romania diplomatically indicated its position by calling for unity within the European Community so that, as an EC candidate country, it could also support a total advertising ban.

Apart from these European nations, country after country indicated their support for a total ad ban.

The breakthrough clearly signalled where the FCTC is headed in terms of tobacco advertising: either a total ban, or a total ban to the extent possible within a country's constitution. The second of these options directly responds to the stated concerns of Germany and the United States, namely that they could not support a total advertising ban because such a ban would not be possible for constitutional reasons.

The movement and emerging consensus on the tobacco advertising issue is extremely positive, with significant potential benefits to global public health now in sight.

L'Ile Maurice a été le premier pays d'Afrique à introduire une interdiction totale de la publicité pour les produits du tabac.

Dès 1999, le *Public Health Act* a été amendé pour interdire toute forme de publicité directe ou indirecte ainsi que toute forme de mécénat des produits du tabac :

- *No person shall in any manner be involved in the publication of any advertisement for the sale or consumption of cigarettes; in the promotion of any trade name or brand associated with a tobacco product.*

[Personne ne doit être impliqué, de quelque manière que ce soit, dans la publication de toute publicité pour la vente ou la consommation des produits du tabac, dans la promotion de quelque appellation ou marque de commerce associées à un produit du tabac.]

- *[...] No person involved in the production, marketing, distribution or sale of any tobacco product shall offer, or agree to provide, any form of sponsorship to any other person in relation to a tobacco product or trade name or brand associated with a tobacco product.*

# Keep it simple...

Be afraid. Be very afraid. The brackets are back... We understand that delegates have been thinking about all the different complications that come with banning tobacco advertising, and the negotiating text has started to accumulate new clauses dealing with particular types of advertising and various obscure problems that may arise.

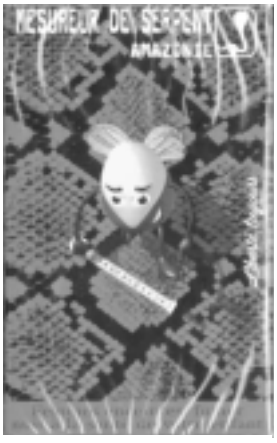
Our advice is: Keep it simple. The best advertising legislation is based on a broad catch-all definition of advertising that includes all forms, including those that the drafters of legislation can't yet imagine!

For example, advertising is commercial communication which has the aim or effect of promoting tobacco products, tobacco brands, or tobacco use to the public. Written into the treaty should be a ban on all forms of direct and indirect advertising, sponsorship and promotion to the extent possible within an existing constitution.

As soon as any attempt is made to recognise particular types of advertising, then the danger is that all other forms, not recognised, will be excluded. Where there is a case for exemptions, such as displaying prices, or for advertising within the tobacco trade, this is best addressed with definitions — for example, by defining advertising as 'to the public', intra-trade advertising is excluded.

A further possibility would be to have the Conference of Parties or a "subsidiary body on implementation" give detailed advice on implementing the general commitment of the FCTC. The latter approach is used in the Framework Convention on Climate Change.

The key political commitment expressed by the vast majority of delegates is a ban on all forms of tobacco advertising. That is the simple statement of the political will of the vast majority of delegations. Everything else is a detail.




***Peau de serpent sur un paquet de Gauloises***

## *Astuces pour déjouer l'interdiction de la publicité en France*

## Le paquet comme moyen de séduction illicite destiné aux jeunes

En France, depuis plus de 10 ans, la publicité du tabac est interdite sous toutes ses formes, directes ou indirectes. Et pourtant, les cigarettiers n'ont pas mis fin aux efforts de marketing, comme le montrent les rapports de surveillance du Comité National Contre le Tabagisme (CNCT).

Plutôt que de se plier à la volonté du législateur, exprimée dans la loi Évin de 1991, l'industrie du tabac profite du fait que cette loi ne prévoit aucun mécanisme de surveillance. Soirées, festivals, cadeaux liés à l'achat de tabac — tout est bon pour accroître la visibilité des marques auprès des jeunes.

De plus en plus, c'est le paquet lui-même qui sert de support publicitaire. Ainsi, la société Altadis (qui regroupe les anciens monopoles français et espagnol) tente d'accroître ses parts de marché en associant sa marque Gauloises à la culture bédé : sur un des paquets, on voit par exemple un préservatif baptisé « sac de couchage ».

Le CNCT, association reconnue d'utilité publique, tente à sa façon de faire respecter la loi Évin, notamment en lançant des procédures judiciaires à l'encontre de l'industrie du tabac et de ses complices pour violation des dispositions législatives et réglementaires. Dans la même lignée, le CNCT réalise depuis 1995 un observatoire des promotions menées par les fabricants. Depuis juillet 2000, le CNCT s'associe à l'Institut de Veille Sanitaire (un organisme gouvernemental) pour réaliser ce travail.

Le CNCT assure une surveillance des publicités diffusées dans les médias, mais aussi une surveillance hors médias, notamment sur le lieu de vente et aux soirées à caractère publicitaire.

L'observatoire montre que les publicités directes se font de plus en plus rares, mais les activités de promotion sont en plein essor. Un total de 80 opérations de promotions ont été observées entre octobre 2000 et avril 2002.

Près de la moitié de ces promotions consistent en un nouvel habillage des paquets. Les fabricants préfèrent cette stratégie aux cadeaux, soirées ou objets publicitaires. En effet, utiliser le paquet de cigarettes pour communiquer permet à la marque de suivre trois objectifs.

Tout d'abord, celui de réduire ses coûts d'investissements avec un travail sur le film protecteur du paquet et non plus la réalisation de produits liés à la marque (cadeaux, objets publicitaires) dont la rentabilité est conditionnée par la vente de plusieurs paquets.

Puis cela lui permet de fidéliser le consommateur actuel, déjà fumeur de la marque avec un paquet plus beau, sur une durée limitée et sans augmentation de son prix.

Enfin, un nouvel habillage du produit va permettre d'attirer le consommateur potentiel avec un paquet original qui se différencie des autres paquets de cigarettes.

Les stratégies des fabricants de tabac ciblent les jeunes avec des messages, des thèmes, des couleurs qui les attirent. L'objectif est de les fidéliser dès le plus jeune âge pour qu'ils développent un sentiment d'appartenance et s'identifient à la marque.

Ce travail a été complété par deux enquêtes auprès des 13-25 ans, la première qualitative pour identifier leurs réactions vis-à-vis des promotions à travers des réunions de groupe, et la seconde quantitative sur un échantillon de 301 jeunes pour évaluer la visibilité des promotions, et leur conséquence sur la consommation. Les deux enquêtes confirment l'efficacité des nouvelles stratégies de marketing déployées par les cigarettiers.

Pour les pays qui prévoient adopter une loi interdisant la publicité du tabac, l'exemple français démontre l'importance de prévoir un dispositif efficace pour surveiller la conformité des cigarettiers, sans quoi ceux-ci trouveront sans doute des moyens détournés pour rejoindre les consommateurs potentiels.

*— Gwendoline Miguel,*
*Comité National Contre le Tabagisme (France)*

# The Relationship of Trade and Health: A Crucial Juncture

Delegates' deliberations on the relationship between the FCTC and trade agreements have now reached a crucial decision point.

Convoluted formulations that either assume or pretend that no conflicts could ever arise between a strong tobacco control convention and the general trade rules would offer an illusory solution and justifiably undermine public confidence in the FCTC.

The Framework Convention Alliance — and numerous delegations from all parts of the world — believe that the FCTC requires a clear statement that in any cases of conflict between the FCTC or its protocols and other international agreements, tobacco control measures would not be undermined. This would reflect the views of the vast majority of delegations, as well as civil society.

A fair resolution of competing health and trade concerns is attainable if certain guiding principles are recognised:

- As a general rule, nations should not be permitted to adopt and implement measures that constitute arbitrary or unjustifiable discrimination. However, as a lethal product, tobacco should be an exception to general trade rules.
- All nations must be assured that they have broad latitude to adopt and implement tobacco control measures to protect public health.
- The WTO rules — written to promote trade in beneficial products — require governments to meet too high a burden of proof for nations to have confidence that their tobacco control measures are safe from attack.
- For this reason, a commitment by FCTC parties not to challenge the tobacco control measures of another party would be extremely valuable.

It should be possible to address the relationship between the FCTC and the WTO agreements — indeed, the relationship between international trade and public health — in a way that recognises the urgent and overriding public health mission of the FCTC.

## Drug trafficking, money laundering, and the transnational tobacco companies

**(cont. from Thursday's issue)**

***A presentation by Carlos Ronderos, former Colombian Minister of Foreign Trade, at ICITT (July 2002)***

...instead of having dollars which are drug dollars, the money launderers have cigarettes. It's much better to have cigarettes than to have illegitimate dollars. Why? Because it is not illegal to have cigarettes. It is illegal to have cocaine money. So this is the first stage in the money laundering. Once the money goes into the multinational corporation, it becomes clean money.

Those money launderers smuggle their cigarettes into Colombia for sale. We even had a Senator elected with that money. He proudly came into Congress nicknamed the "Marlboro Senator". He never opened his mouth because he was almost illiterate. And then those cigarettes are sold and the pesos are collected.

So the cigarettes become instrumental in the money laundering, in turning a dollar in a street in New York to a peso in the streets of Bogota that will be sent to the plantations for the process to go on and on again. So this is the flow chart — the drug dealer, the street, the dollars, the cigarettes, the smuggling and back. It's called the peso broker system.

It has been identified by American authorities, it's been studied and it's well known. There are documents and other evidence showing that this is what happens. But why is the tobacco industry involved in this illegal business?

The first reason is price. If prices are low, consumption of tobacco grows. But there is another reason. When the dollar is out there in the street of New York, no one wants to hold that dollar. It is dangerous, you might go to jail. So anyone doing that laundering usually buys that dollar for 60% or 70% of its face value.

They buy the cigarettes with a 20% or 30% discount because the dollars they are buying with are dollars which they don't buy at their face value. So if you add the fact that no taxes are paid, the cigarettes that are sold in the streets actually have a price which might be lower than what they cost from the factory. Because it is subsidized by the difference between the dollar which is laundered, and the price of a dollar when its dirty. And that difference is what makes their profit.

In addition to the profits to be made from money laundering, the cigarette corporations gain because prices for cigarettes in Colombia are less than half their normal price. Sales have doubled and of course profits skyrocketed. This is good business for the tobacco companies and it is good business to the drug dealers.

Who are the winners and losers in this process? The real winners in these operations are the drug dealers, the smugglers, the terrorists who finance their activities with this money, and the tobacco companies who gain new markets. The losers are the young Colombian smokers who can buy cigarettes very cheaply, and the U.S. war on drugs.

The Colombian economy also loses because of evasion of tobacco taxes. That means all parts of government which rely on tobacco taxes lose: health, education, state governments. Evasion of tobacco taxes means that literally hundreds and millions of dollars are taken from the educational system and go instead into the drug money and profits for the multinational corporations.

**From:** ***Doctors' manifesto for global tobacco control***

"In Latvia, as in many other countries, tobacco smuggling is a concern. Tobacco smuggling undermines public health policy, and must be controlled. The FCTC should include strong measures to tackle smuggling, including tracing of tobacco exports."

*Prof Viesturs Boka*
*President*
*Latvian Medical Association*
*Latvia*

# Las tabacaleras en Uruguay siguen demostrando su poder para engañar a la gente

Las Multinacionales Tabacaleras aplican en Uruguay la experiencia desarrollada a nivel internacional, para manipular la opinión pública y presentarse como compañías responsables vendiendo un producto normal, y ocultar su verdadera ocupación: mercaderes de la muerte.

En el 2001, Philip Morris (PM) lanzó su programa juvenil, con el auspicio del Ministerio de Educación y Cultura, y otras autoridades. Utilizará como complices involuntarios a los maestros, quienes se encargarán de difundir el claro y contundente mensaje, con el cual la empresa dice que ayudará a nuestros jóvenes a no fumar: Fumar es sólo para adultos.

Además de ser una vulgar trampa, estimulará el consumo juvenil. Para aumentar la indignación, al elegir el nombre del programa, hace gala de una cinica ostentación de su poder político y económico: YO TENGO PODER.

En mayo del 2002, PM y BAT publicaron un artículo, pagó por ellos pero presentado como información periodística, bajo acapite de Comunicación Responsable, y con el título 'BAT y PM se retirarán de la publicidad en radio y TV. ' Título realmente impactante.

Pero inmediatamente comienzan a desnudar su estratégia: 'Las compañías acordaron a nivel internacional, acotar su publicidad a los mayores de 18 años'. Que no es lo mismo que dice el título. Es otro engaño. No es posible hacer publicidad para jovenes de 22 años, y que no influya en los menores. ¿ Quién y cómo se demostraría que tal publicidad está destinada a mayores de 18 años ?

'El objetivo final es que el 1 de enero del 2003 no haya publicidad de campañas de cigarrillos en TV, ni radio, ni en ningún otro medio *al cual tengan acceso los menores de edad'*. 'Las medidas apuntan a tener una política de *comunicación responsable*, en el sentido de proteger al menor de la publicidad'. Se trata de un 'compromiso voluntario', decía del Gerente de asuntos corporativos de BAT en Uruguay.

Aquí denuncia su objetivo : cambiar la imagen y presentarse como una empresa responsable, y dejar abierta la posibilidad para hacer propaganda de 'la empresa'. Además, ¿si violan lo que ellos ofrecen, que sanción tendrán?

'Existe un consenso internacional de que no se haga publicidad que pueda estimular a que los jóvenes ingresen al consumo de tabaco'. 'Segun investigaciónes internacionales, el porcentaje de jovenes que declara consumir cigarrillos a causa de la publicidad, es mínimo', agregó el Gerente de BAT. Aqui, claramente busca engañar a la opinión pública, manipulando la información.

Si bien es correcto que la 'creencia' de los jóvenes es que la publicidad no les influye, la información basada en evidencia científica, demuestra que la publicidad tiene una gran influencia en este grupo. Existe consenso científico internacional sobre que la eliminación total y completa de todas las formas de publicidad es la única medidad efectiva para reducir el consumo juvenil.

Desde julio de 2002, como estratégia ante una grave crisis económica que afecta al país, PM lanzó una agresiva campaña publicitaria, 'Calidad P.Morris a un precio injusto'. La empresa bajó el precio de los cigarrillos a 17 pesos (56 centavos de dólar), que al decir de un periodista uruguayo, 'vender un producto tan nocivo a dicho precio no es injusto, ES CRIMINAL'.

Coincidiendo con el inicio de las negociaciónes por el Convenio Marco, BAT utilizó casi 15 minutos del informativo central de uno de los principales canales de TV, para mostrar todo lo bueno que hace la empresa a nivel mundial, y también en Uruguay, y para sostener que el consumo de tabaco no es una drogadicción. Volviendo a utilizar el poder sobre los medios de difusión masiva, para seguir engañando a la población.

***El programa "Yo Tengo PODER" de Philip Morris existe también en otros países latinoamericanos.***

Hasta cuando se va a permitir que estas empresas sigan engañando a la sociedad, promoviendo una mortal adicción, con el objetivo de mantener e incrementar sus ganancias, sin importarles para nada el costo humano y económico que tiene este consumo para los países.

*— Dr. Eduardo Bianco*
*Director del Programa de Control del Tabaco*
*Fundación Interamericana del Corazón*

| FCTC Jargon | Meaning |
|---|---|
| **Gradually** | Like the movement of a glacier |
| **Point of order**<br>**Point of order [repeatedly]** | A fascination with form over substance<br>A rare and deadly form of diplomatic Tourette's syndrome |
| **WM.badbrackets.S32** | A software virus that infected earlier texts with numerous symbols like {[/}¦(**not{**!) since cleaned off the offending computer |

# National constitutions, freedom of speech and a complete ban on tobacco advertising: they are not mutually exclusive

We hear that the United States has been trying to sway Latin American delegates to steer clear of supporting a complete advertising ban on tobacco. Apparently, American-style, constitutionally based "freedom of speech" arguments are being bandied about. This type of argumentation has some serious flaws.

The notion of "freedom of speech", or the right to criticise, has its genesis in the philosophies of John Locke and Jean-Jacques Rousseau. The basic premise is that in order for the truth to be known, one needs to speak freely, to argue with others, to hear and listen, and to sway the opinions of others.

Somehow, for some, "freedom of speech" has come to mean commercial freedom. Commercial freedom implies that individuals should have access to appropriate information in order to make intelligent purchase decisions.

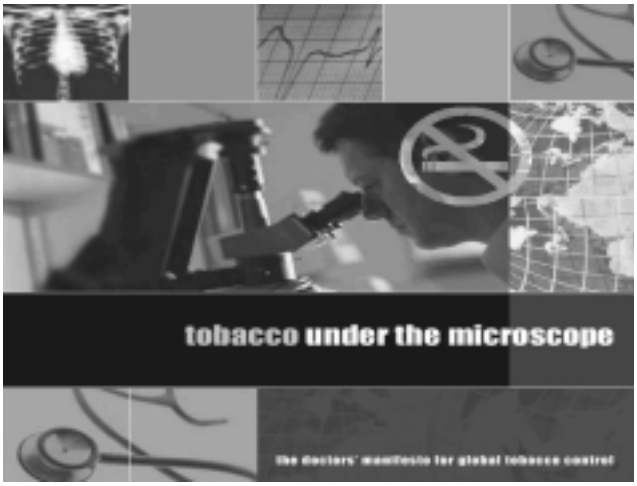
In the United States, this in turn has further degenerated and become mutated to mean the "right to sell" — the emphasis here being on a corporation's right to increase its markets and make a profit — and consequently to advertise its products.

Equating a corporation's for-profit objectives, and its right to advertise, with an individual's right to freedom of speech is simply inappropriate. This is really a perversion of the notion of freedom of speech.

Societies are fully within their rights to care about what products are advertised or not advertised. Even the advertising of beneficial products, such as prescription drugs, are regulated or banned in many countries. It stands to reason that a society should be able to regulate and control detrimental products such as tobacco, including its advertising.

Our best advice to Latin American delegates is to ignore US "freedom of speech" arguments that are not relevant to their own constitutional realities, and to endorse a complete ban on tobacco advertising.

*— Judy Wilkenfeld & Manuel Arango*




## Dirty Ashtray Award

**Japan Tobacco,** for saying in a recent speech on "Ethics vs. Activists" that children aren't affected by highway billboards because "children don't drive".

## Orchid Award

**AFRO,** for their ongoing strong leadership, including support for larger pack warnings.

## Doctors' manifesto for tobacco control

Medical associations from around the world are today launching a manifesto for strong tobacco control and a strong FCTC.

In their statement, the World and Commonwealth Medical Associations, the European Forum of Medical Associations and the Standing Committee of European Doctors (CMPE) all call on FCTC Parties to:

1. Include clear, informative health warnings on every packet;
2. End misleading claims that some cigarettes are safer than others;
3. Increase the price of tobacco through taxation;
4. End tobacco advertising;
5. Protect non-smokers from tobacco smoke.

The four endorsing groups include national medical associations from more than 100 countries. At noon, physicians from around the world will be presenting the manifesto to World Health Organization Director-General Gro Harlem Brundtland.

"In Japan, health warnings are very weak. Smokers need to be informed of the real risks of smoking, with information on specific diseases. Strongly worded, rotating warnings are most effective." ***— Dr Eitaka Tsuboi, President, Japan Medical Association***

"In Turkey, smoking among children fell following the introduction of a ban on tobacco advertising. The FCTC should protect children by banning all forms of tobacco promotion. It should also include measures to prevent the tobacco industry participating in youth education campaigns." ***— Dr Füsun Sayek, President, Turkish Medical Association***

## FRAMEWORK CONVENTION ALLIANCE

The Framework Convention Alliance (FCA) is an alliance of NGOs from around the world working to achieve the strongest possible Framework Convention on Tobacco Control. Views expressed in the *Alliance Bulletin* are those of the writers and do not necessarily represent those of the sponsors.

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