



## MEDICINE AND THE LAW

## Young adults, the target of below-the-line advertising

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South Africa has instituted some of the most progressive tobacco control legislation in the world through promulgation of the Tobacco Products Control Amendment Act of 1999, which *inter alia* banned advertising and promotion of tobacco products. These steps were instituted with the express intention of protecting young people from the harms of tobacco use. It is well known that most adult smokers initiate smoking during the youthful years, and if adolescents do not initiate smoking by 18 years of age they are unlikely to do so as adults. The global increase in adolescent smoking during the 1990s provided the impetus for focused efforts to control adolescent smoking rates. The tobacco industry also made an about-turn in its policy towards young people after their efforts to hook young smokers were exposed with the release of internal documents into the public domain. The industry is now attempting to re-build its credibility by using public campaigns that profess its commitment to preventing adolescents from smoking. Yet one of the concessions that the industry fought hard to maintain during the multiple litigations in the USA was the freedom to promote cigarettes in adult-only venues, namely bars and nightclubs frequented by young adults.<sup>1,2</sup> It is therefore not altogether surprising that in the 1990s smoking rates in the USA climbed among young adults aged 18 - 24 years.<sup>1,2</sup>

### Indirect advertising

Despite the introduction of tighter legislative controls, young adults in South Africa have not escaped the allure of tobacco advertising. The tobacco industry has re-directed its exorbitant advertising budget to capture the vulnerable youth target markets. While advertising, promotion and the free distribution of cigarettes are banned under the law of 1999, the law does not expressly deal with indirect advertising. Herein lies the loophole. The tobacco industry has moved its advertising below the line, much as in the USA, using nightclubs, bars and social networks to invite more affluent young adults in their

early to mid-20s to swinging, 'to-be-seen' parties. The catch, of course, is that these events are private parties, not open to the general public, so they fall below the radar of the legislation. Yet for all intents and purposes they are illegal in terms of the current legislation.

Through snowball sampling, we interviewed a number of young people who have attended such events. They report hip parties that 'promote a trendy lifestyle', with cigarettes constituting just one part thereof. While the details differ depending on the brand being promoted, the *modus operandi* is standard. Young people are generally invited to these events through their social networks. They are then individually contacted by the organisers and given a time and place to collect a personal invitation. They are addressed as choice invitees. Identity numbers are screened to make sure they meet the over-18 requirement. In some cases, party-goers are asked to meet at a specific location and are bussed to the party venue. A recent exposé in *Noseweek*,<sup>3</sup> a critical popular magazine, described a trail of clues that young people had to follow to access 'designer invitations'. Sometimes these events involve hundreds of people, in other cases they are intimate affairs of 30 - 40 people held at upmarket bars, restaurants or even wellness spas. The tobacco advertising is not overt, but like the entertainment and food, alcohol and cigarettes are freely available. The parties are so good that attendees want to be re-invited. If young people are randomly selected to attend another event, they might not be allowed to bring the same friends. In this way the database of new recruits is constantly expanded. The honour of being chosen to attend another party adds an air of exclusivity to these events.

### Legislative response

The Department of Health is well aware of the industry's drive to exploit such loopholes in the legislation. In fact, one of the objectives of the Tobacco Products Control Amendment Bill of 2003 is to close these loopholes through expanding the definition of advertising to include indirect advertising. Many of these young adults are up-and-coming professionals who have the security of education, employment and good career prospects. Yet these bright futures are threatened by an industry intent on manipulating the exuberance of young people towards lifelong addiction.

While the law will definitively close this loophole, public health activists need to remain vigilant and wary of the promises offered by the 'we've changed' routine of the tobacco industry. No matter how glamorously it is dressed up, the

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ultimate aim of the tobacco industry is to sell a lethal product. With advertising budgets that often exceed the public health budgets of entire countries, there are resources to buy the best of creative innovations to lure new smokers. Efforts such as the Framework Convention on Tobacco Control,<sup>4</sup> the first international public health treaty to which South Africa is a signatory, are therefore critical for countries to learn about old tricks applied to new markets. Countries like South Africa that have ratified the convention are legally bound to restrict

tobacco advertising, sponsorship and promotion, to establish new packaging and labelling of tobacco products, to institute clean indoor air policies and to strengthen legislation to reduce tobacco smuggling.

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3. Kadey J. Fag companies dance around the law. *Noseweek* 2005; **64**: 20-21.
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