NO SMOKE WITHOUT FIRE

A proposed ban on all financial contributions to any worthy projects or causes by anyone involved in the South African tobacco industry — including retail outlets — is set to torch tens of millions of rands annually in social transformation projects.

This will be the outcome if draft legislation being aggressively promoted by the Health Ministry is successfully steered through parliament in its present form early this year.

While the government appears to be blocking moves by the tobacco industry to shift their banned advertising efforts to sponsorship programmes, the Tobacco Institute of South Africa (TISA) denies that any current social responsibility programmes promote brand names.

Mr Francois van der Merwe, CEO of the Tobacco Institute of South Africa.

TISA, which represents all major tobacco manufacturers, said it was therefore 'disconcerted and perplexed' at the purpose of the sweeping measure.

The offending clause in the Tobacco Products Control Amendment Bill (2004) states that 'no manufacturer, importer, distributor or retailer of tobacco products shall make any financial contribution to any person in respect of any organization, event, service, physical establishment, program, project, bursary, scholarship or any other vehicle of any kind'.

The practical effect of the proposed ban will put a stop to the entire social responsibility effort, not only of the tobacco producers and manufacturers but also of retailers such as Pick 'n Pay, Shoprite-Checkers and Spar and petrol companies such as BP, Caltex and Shell. TISA says no public health objective will be met by outlawing legal companies from meeting their social transformation objectives. It firmly believes the new law will do far more harm than good.

Pick 'n Pay deputy chairman, Dave Robins, told the *SAMJ* that his retail chain gave away between R130 and R150 million in 'direct philanthropy' in bursaries, supporting specific communities and charities over the past five years. 'We need to understand exactly what is going on, but one thing is certain, if that legislation does get passed, we certainly won't lie down and take it. None of our (corporate social investment) projects have anything to do with tobacco product marketing,' he said.

Robins said it seemed as if the government had not fully thought through the severe consequences of the clause. He said some philanthropic projects carried Pick 'n Pay's name and some did not. Pick 'n Pay spent 8.5% of their after-tax profit on philanthropy every year and would continue giving this money to causes it believed were deserving.

TISA claims that other provisions in the bill requiring tobacco products to go 'under the counter or behind closed doors' will explode the burgeoning illegal tobacco market and cost the government over R466 million in annual excise revenue in 2003 alone. At present government raises more than R6 billion in excise and VAT annually from cigarette sales to an estimated five million adults. Over 60 000 informal retailers as well as some 1.4 million hawkers also stand to be affected by the 'hide the cigarettes' measure.

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British American Tobacco South Africa (BATSA), the largest group member of TISA (90% South African market share), says in its objections to the Department of Health that it plans and budgets according to government policy (i.e. reducing the volume of cigarettes sold). BATSA strongly supported the government's intention to increase the age for tobacco product purchase from 16 to 18 years and had launched a campaign to educate retailers about the penalties of selling cigarettes to minors plus a call for the government to raise the minimum age. However, it saw the fines, which would rise from the current R10 000 to a maximum of R50 000 for a first offence and up to R150 000 for subsequent offences, as 'excessive and entirely inappropriate'.

BATSA contributed some R36 million to social transformation projects and initiatives in 2003. The corporate social investment initiatives, now under threat, include black economic empowerment, HIV/AIDS, tertiary education, sustainable development and social justice initiatives.

How times change!— A 1944 SAMJ *cover.*

Specific projects which would either go up in flames or be severely 'burnt' include:

- A R3 million sustainable farming project in the tribal Jumba area of the Eastern Cape, initiated by former President Nelson Mandela, in which 140 poverty-stricken families have become successful maize farmers, with obvious benefit to their community.
- A R5 million project — through Roundabout Outdoor — to install 100 water pumps in rural areas in South Africa's five poorest provinces to make water accessible to communities in disadvantaged areas.
- R4 million spent in tertiary education at universities across the country to enable financially needy students from previously disadvantaged backgrounds to obtain a university education.
- R10 million earmarked for HIV/AIDS programmes.
- The UCT Sports Science Institute owes its existence to tobacco tycoon Anton Rupert (who is an anonymous donor), as well as an annual injection of R1 million from Pick 'n Pay.

Simon Millson, corporate and regulatory affairs director at BATSA, says: 'Our aim has never been to seek publicity for BATSA, but rather a genuine desire to make a difference in the communities and the country in which we operate. Corporate social responsibility activity does not promote our product, brands or smoking behaviour.'

One of TISA's biggest concerns is that 'unscrupulous crime syndicates' will prosper at the expense of 'legitimate, responsible and law-abiding' manufacturers. TISA says that by reducing the visibility of legitimate tobacco brands a cloak has been provided under which illegal companies are beginning to prosper. The new bill would lead to more crime syndicates counterfeiting or smuggling tobacco products. The funds so generated would fuel other criminal activity such as drug trafficking, prostitution and illegal firearms, creating an even greater impact on societal health and safety.

The rise in illicit trade was stimulated by the increase in tobacco taxes and the reduced visibility of legitimate brands. As legal cigarettes became more expensive, smokers turned to cheaper tobacco products on which no tax was paid. As brand recognition faded, consumers also began to attach a lesser value to legal brands. According to the international trade watchdog, Euromonitor, annual tobacco

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consumption in South Africa has risen to 35.4 billion cigarettes, of which 10 billion are illicitly traded. According to external research commissioned by BATSA, nearly half of all adult smokers in South Africa are aware of counterfeit cigarettes and 62% of these had bought the counterfeits, generally sold at half price because of sellers having sidestepped excise and VAT.

TISA alleges that government departments are pulling in opposite directions.

While the Department of Health was seeking public comment on the controversial new tobacco bill in mid-2003, the Department of Trade and Industry (DTI) was inviting stakeholders to a 3-day workshop to formulate an effective enforcement strategy on counterfeit products.

The Police Services, Revenue Services and industry were invited to the DTI workshop. 'This seems a far more reasonable way to tackle public policy formation,' the TISA spokesman said. Police seizures of illegal cigarettes rose more than ninefold in 2003, while the Health Department's law-making exacerbated and stimulated the illicit market.

Telephonic and e-mail attempts by the *SAMJ* to elicit a response from the Minister and Department of Health on the offending clauses of the bill were unsuccessful.

Chris Bateman