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NEWS ANALYSIS

Germany: tobacco industry still dictates policy

The majority of the German public (over 60% in independent surveys) who support comprehensive smoke-free legislation will have been disappointed by the recent, farcical turn of events in Germany. For the tobacco industry, used to dictating tobacco control policy in Germany, December was surely business as usual.

Triggered by the success of smoke-free legislation in other European countries and recent estimates that over 3300 deaths per year can be attributed to secondhand smoke in Germany, last September, two groups of parliamentarians made independent proposals for comprehensive national smoke-free legislation. Both gained large support in parliament, and the grand coalition government established a working group to craft a comprehensive law. While smoking restrictions in schools, public buildings and hospitals were largely accepted, those in restaurants, pubs and bars were highly controversial, stimulating a media circus and strong opposition from the Verband der Cigarettenindustrie (VdC), the tobacco industry's trade organisation in Germany.

VdC representatives engaged in a high-profile lobbying campaign, contacting politicians directly and appearing on numerous TV talk shows to promote the usual tobacco industry arguments about freedom and choice. Moreover, according to media reports, the tobacco industry influenced the working group's draft legislation to such an extent that the grand coalition government (whose federal ministries of health and consumer protection were both represented on the group) was labelled an industry "puppet". Not only was the text severely weakened, with pubs and bars totally excluded and restaurants partially exempted but, text citing verbatim a VdC position paper reportedly found its way into the draft.

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After heated negotiations, on 1 December, the working group presented plans for national smoke-free legislation. Although the proposed ban would hardly have been effective—smoking would still be allowed in bars and pubs and in enclosed smoking rooms in restaurants, and enforcement was weak—the fact that national tobacco control legislation was being contemplated was itself exceptional for Germany, which has long favoured industry self-regulation.

The surprise was perhaps even greater given that one such ineffective voluntary agreement had only recently been reached between the government and the German hotel and restaurant association (DEHOGA). Furthermore, Philip Morris, with impeccable timing, had just co-sponsored the annual convention of the Christian Democratic Union, the political party of the Chancellor, Angela Merkel (as it does for most other political parties).

Just a few days later, however, government leaders expressed concern that national legislation to protect the public from secondhand smoke was unconstitutional. The federal health ministry fought strongly for national legislation, arguing that constitutional law allows the federal government to take measures against public health risks. But the federal ministries of justice and internal affairs countered that the law required such health risks to represent an immediate danger to the public and thus did not cover involuntary smoking. On this subject, the media repeatedly quoted one prominent opponent of the legislation: Rupert Scholz, university professor of law, former minister of defence and a member of parliament.

What was not mentioned, however, was the apparent longstanding link between Scholz and the German tobacco industry. According to internal tobacco documents released through litigations in the USA, in the early 1990s, Scholz was the vice-chairman of VERUM, a foundation that funds research (its name is a shortened form of its long title in German, meaning a foundation for behaviour and the environment). VERUM was established and financed by the tobacco industry and Scholz still serves on its board. Moreover, in 2002, the German news magazine *Stern* reported that Scholz received 50 000 Deutsche Marks (US\$33 000) in 1994 from the VdC for consultancy services. It is interesting to speculate about the extent to which Scholz

used his influence with the federal ministries of justice and internal affairs, and whether he declared any conflict of interest in his dealings with them.

These events demonstrate that the tobacco industry continues to enjoy a staggering amount of influence in Germany. In contrast with other high income countries, the tobacco industry remains a credible partner and continues to enjoy close links to German politicians. Furthermore, the failed effort shows a recurring intragovernmental conflict between the health ministry and other federal ministries when it comes to tobacco control. In Germany, with health seen as low on the political agenda, the health ministry always loses.

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Australia: British American Tobacco "addresses" youth smoking

British American Tobacco Australia (BATA), whose website states with anodyne irony that it "is helping to build effective programmes to address youth smoking", has given us a further clue about what it might mean by "address". The company has launched a range of twin-compartment Dunhill Distinct "wallet" packs.

Once out of the cellophane, the pack (see figure) folds apart. Separated by a thoughtfully perforated edge, it is ready to tear into two iPod-sized packs, one with 13 cigarettes and another with 7. Public health groups branded them "kiddie packs", designed to appeal to price-sensitive children who can split the cost with their school lunch money and then split the pack as they step out of the shop.

Packs in Australia must contain a minimum of 20 cigarettes to deter children's purchasing. It must never have crossed BATA's mind that their nifty new tear-in-half packs might be a great way to beat the price barrier and provide two easily concealable packs for intrepid young smokers.

But someone in the company might have a lot of egg on their visage. Once the